PLANNING COMMISSION AGENDA

CITY OF NEWPORT BEACH
COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
Thursday, February 9, 2012
STUDY SESSION - 4:30 p.m.

MICHAEL TOERGE Chair

BRADLEY HILLGREN Vice Chair

FRED AMERI Secretary

KORY KRAMER
JAY MYERS
LARRY TUCKER

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

PATRICK ALFORD, Planning Manager BRENDA WISNESKI, Deputy Community Development Director

LEONIE MULVIHILL, Assistant City Attorney TONY BRINE, City Traffic Engineer

NOTICE TO THE PUBLIC

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

NEWPORT BEACH PLANNING COMMISSION AGENDA Council Chambers – 3300 Newport Boulevard Thursday, February 9, 2012 STUDY SESSION MEETING 4:30 p.m.

A. ROLL CALL

B. CURRENT BUSINESS

ITEM NO. 1 Newport Banning Ranch: Discussion of Open Space, Parks and Trails

SUMMARY: This is the second of a series of study sessions on the proposed Newport Banning Ranch

project. The purpose of the study sessions is to provide the Planning Commission and the public the opportunity to review and discuss details of the proposed project prior to public hearings. This study session will focus on the proposed open space areas, parks, and trail

system.

C. PUBLIC COMMENTS

Public comments are invited on items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.

D. ADJOURNMENT

COMMUNITY

JAN 2 4 2012

DEVELOPMENT OF NEWPORT BERGY

Hello.

REGARDING THE STUDY SESSION

for BANNING RANCH JANVANY 192012:

I. The MAPS ON BOTH THE HANDONE

AND THE POWER POINT PRESENTATION

WERE SO SMALL, I COULD NOT

READ THEM. I COULD NOT

READ THEM. I COULD NOT

READ THEM. I CONNECTIONS.

PLEASE MAKE THE VERY IMPORTANT

MAPS LARGER.

2. WE DROVE THROUGH THE

TICONDER OGA NEIGHBORHOOD AND

IF THAT STREET BECOMES A

COMMUTER ROAD, IT WILL DESTROY

THAT NEIGHBON HOOD.

THANK YOU IN hAVING THE STUDY SESSIONS, HOPE TO BE AT THE NEXT ONE. SANDY JOHNSON



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT 3300 NEWPORT BOULEVARD, BLDG. C NEWPORT BEACH, CA 92658-8915 (949) 644-3200

Memorandum

To: Planning Commission

From: Patrick J. Alford, Planning Manager

Date: February 9, 2012

Re: Study Session on Newport Banning Ranch: Open Space, Parks and Trails

This is the second of a series of study sessions on the proposed Newport Banning Ranch project. The purpose of the study sessions is to provide the Planning Commission and the public the opportunity to review and discuss details of the proposed project prior to public hearings. Public hearings before the Planning Commission and the City Council are tentatively scheduled for March and April, 2012.

This study session will focus on the proposed open space preserve areas, parklands, and trail system. Approximately 250 acres of open space, 50 acres of parks, and seven miles of trails are proposed on the 401-acre project site. In addition to reviewing the proposed uses and improvements of these areas, staff will examine the project's consistency with General Plan conservation and recreation policies and explore issues related to ownership and maintenance of open space areas and trails. An overview of the proposed habitat restoration, landscaping, and fuel management plans will also be presented.

Staff has revised the schedule for subsequent study sessions. The February 23rd study session on the land use, development regulations, and architectural guidelines will be conducted as planned. A fourth study session, exclusively on the findings of the Draft Environmental Impact Report, will be held on March 8, 2012.

February 23, 2012 Land Use, Development Regulations, and Architectural Guidelines

5:00 p.m. to 6:30 p.m.

March 8, 2012 Draft Environmental Impact Report (Additional study session added)

4:30 p.m. to 6:30 p.m.

The study sessions are for discussion purposes only and no action will be taken by the Planning Commission. Interested parties are encouraged to limit their comments and questions to the issues that are the subject of each study session.

Public notice of the study sessions was provided by the posting of the agenda at City Hall and on the City's website. In addition, notice was distributed through the City's Select Alert system and through a press release.

COMMUNITY

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NEWPORT BANNING RANCH

Planning Commission Study Session Open Space, Parks, and Trails February 9, 2012

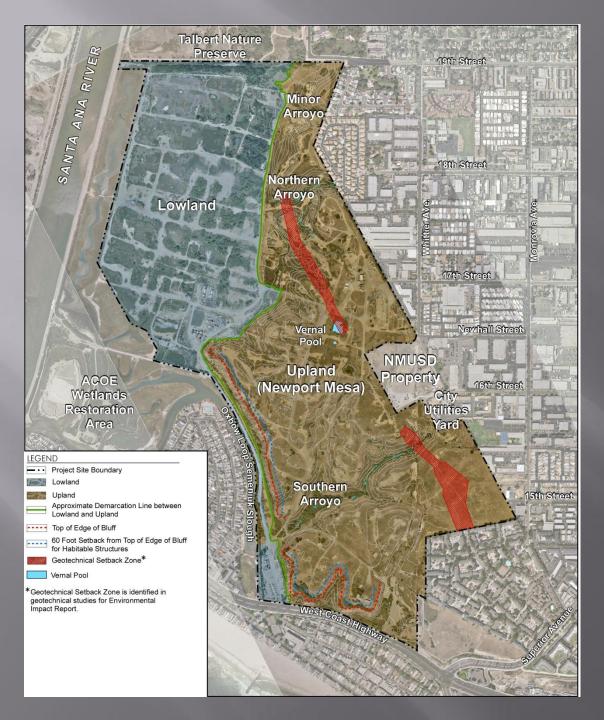
Study Session Schedule

- 01/19/12 Subdivision Design & Circulation 4:30 pm to 6:00 pm
- 02/09/12 Open Space, Parks, & Trails 4:30 pm to 6:00 pm
- 02/23/12 Land Use, Development Regulations & Architectural Guidelines 5:00 pm to 6:30 pm
- 03/08/12 Draft Environmental Impact Report 4:30 pm to 6:30 pm

Setting



Adjacent Open Space & Parks

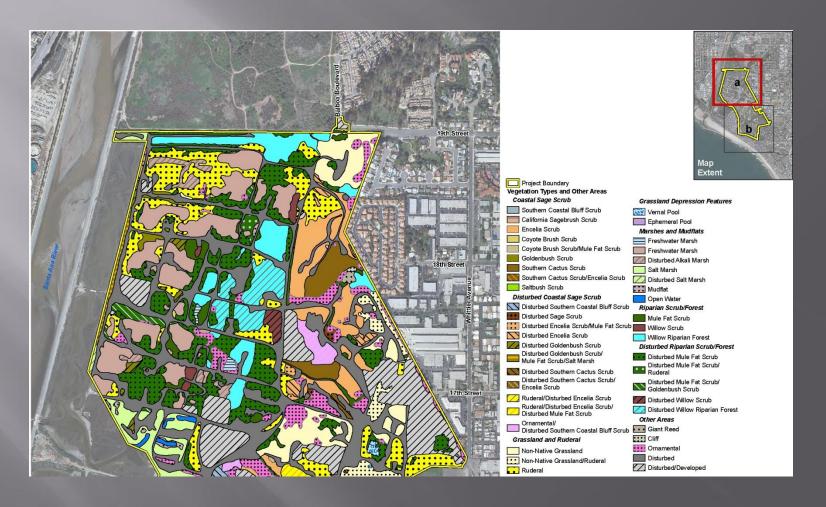


Topographic Features

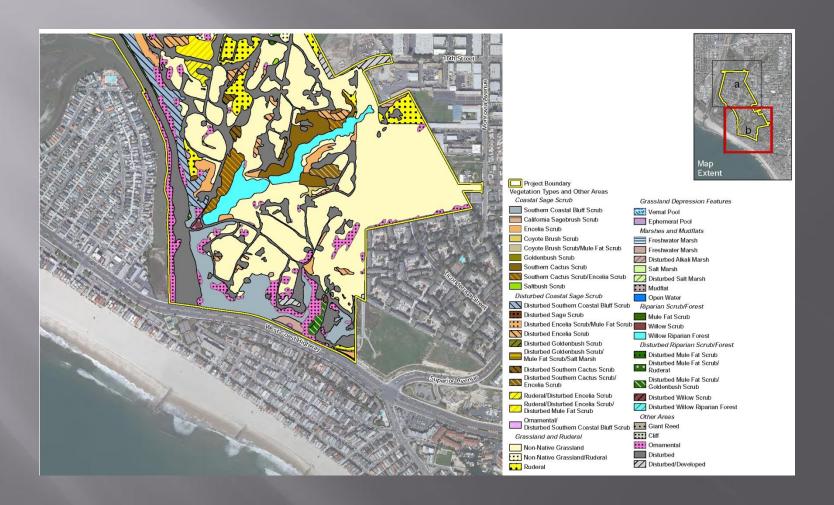


Cut & Fill

Vegetation



Vegetation



GENERAL PLAN POLICIES

LU 6.4.8 Open Space Network and Parklands

LU 6.4.8 Open Space Network and Parklands

Establish a framework of trails, community parklands, and natural habitats that

- provided to 17 and vot) ar sun (which the residential village's uses are developed and interconnect residential districts, the village center, other uses, and open
- sp@ommunity Parklands
- Natural Habitats

LU 6.5.2 LUche Sommunity Park

- Ace in model a formunity pack of 20 to 30 acres that contains acrive playfields that may be lighted and is of sufficient acreage to serve adjoining neighborhoods and residents of Banning Ranch, if developed. (Imp 3.1, 4.1)
- West9NewPiority &rearifityProvision
- Serve adjorry de additional park and recreation facilities that meet the needs as identified Ranch by direct feedback from residents, analysis of future trends, and through
- 20-30 acresobservations by Recreation and Senior Services staff, as shown in Figure R2.
- · Active community was lepita yelicale Banning ranch area develop an active
- Possible night community park of 20 to 30 acres with consideration of night lighting

LU 6.5.4 Relationship of Development to

- LU 6.5.4 Relationship of Development to Environmental Presources
- Development should be located and designed to preserve and/or mitigate for the loss of wetlands and drainage course habitat. It shall be located to be contiguous and compatible with existing and planned development along its eastern property and preserving the adorestic typh wildlift to be back from the bluff forces along which shall be located a linear park to provide public views of the
- Preserve/or needs, along which shall be located a linear park to provide public views of the needs, and surrounding open spaces. Execute lighting shall be located
- Preserve/mitand designed to minimize light trespass from developed areas onto the bluffs, it at
- Preserve the connectivity of wildlife corridors
- Bluff setback/linear park

LU 6.5.3 Habitat and Wetlands Habitat Wetlands

R 10 Bestore ar deciplant overlands and wildlift habitates in accordance with the requirements of state and federal agencies. (Imp 3.1, 4.1, 14.7, 14.119)

NR 10.9 Development on Banning Ranch

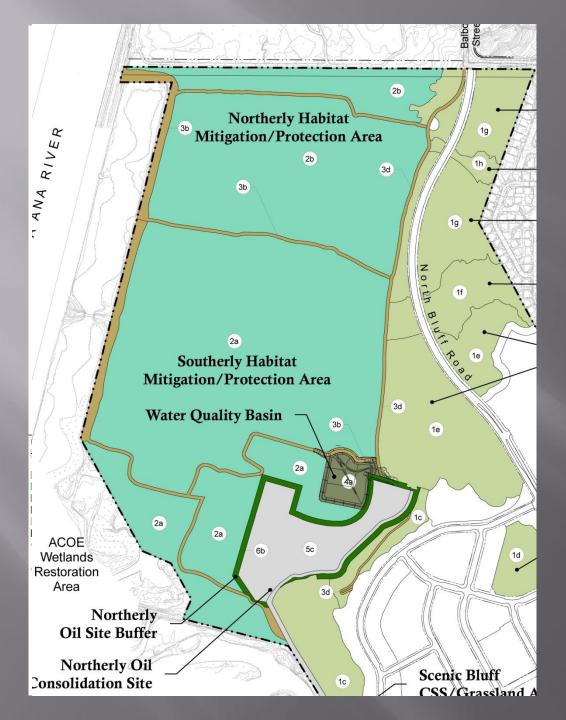
Protect biologicted the sassion is a large source that an assessment be prepared by a qualified

biologist that delineates sensitive and rare habitat and wildlife corridors. Require that development be concentrated to protect biological resources and coastal

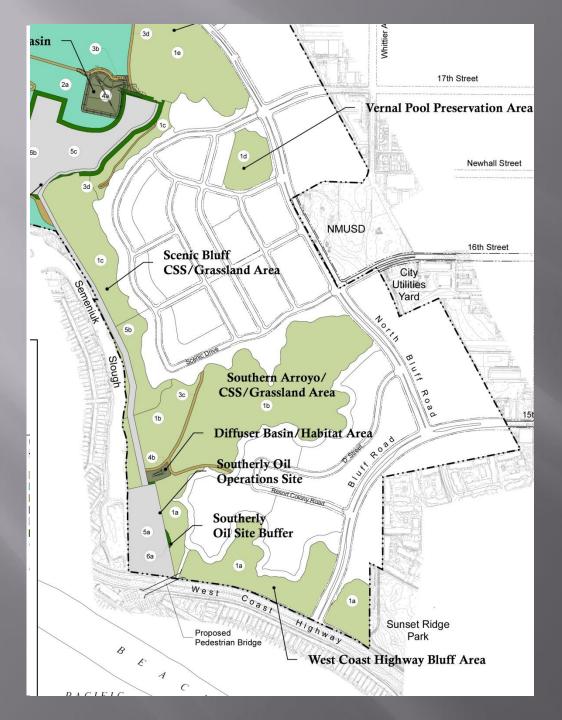
Restoration Objuffspire structure designed to not by intrusive purche surrounding landscape Require the restoration or mitigation of any sensitive or rare habitat areas that

habitat areas that affired baffifed the by fut ture, the velopment

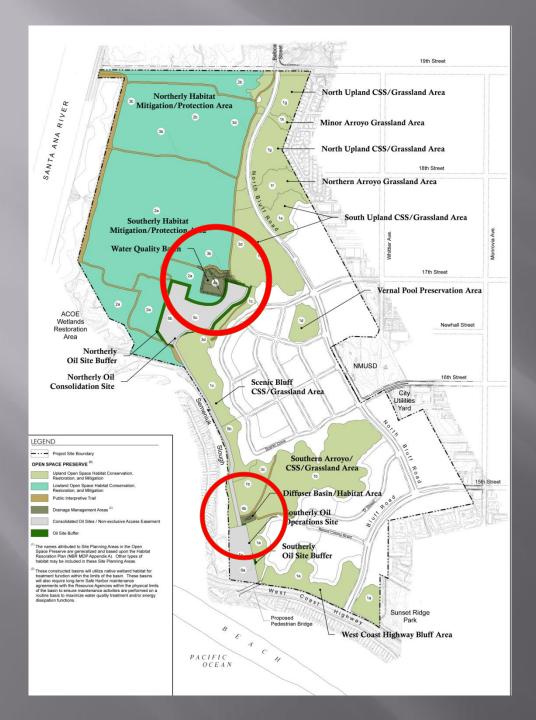
OPEN SPACE AREAS



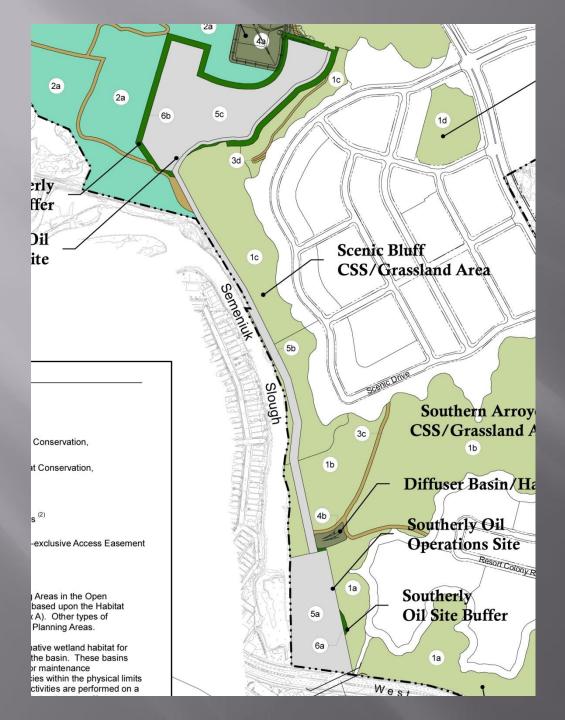
Lowland Habitat Grassland Areas Minor/North Arroyos



Vernal Pool Area Bluff Areas Southern Arroyo



Drainage Management Areas

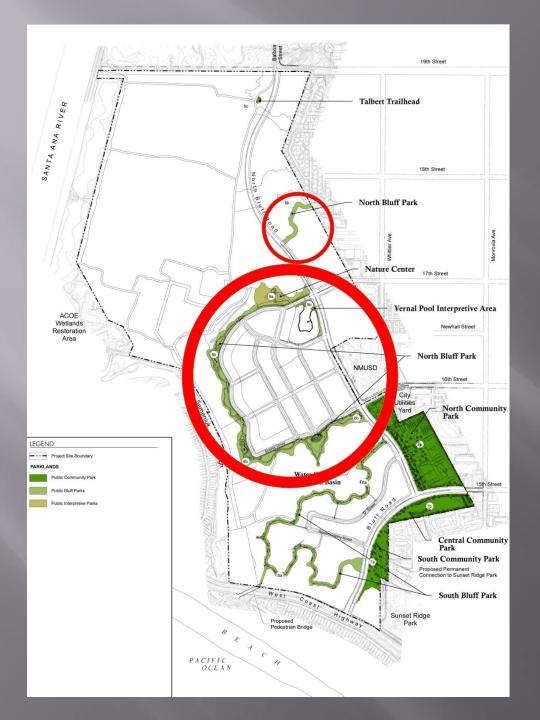


Consolidated Oil Sites

Open Space Plans

- NBR Habitat Restoration Plan (Appendix A)
- NBR Fire and Life Safety Plan (Appendix B)
- NBR Plant Palette (Appendix C)

PARKLANDS



North Bluff Park

North Bluff Park



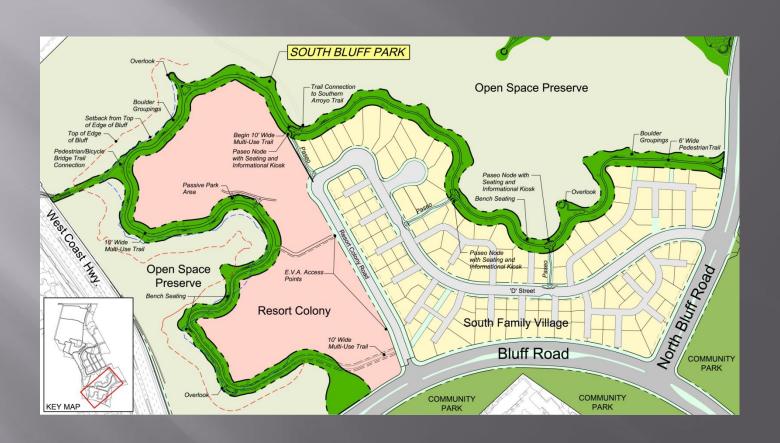
North Bluff Park

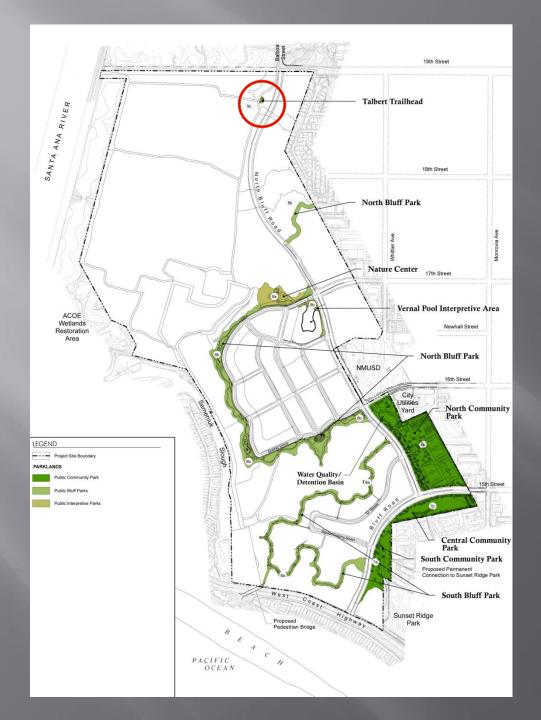




South Bluff Park

South Bluff Park

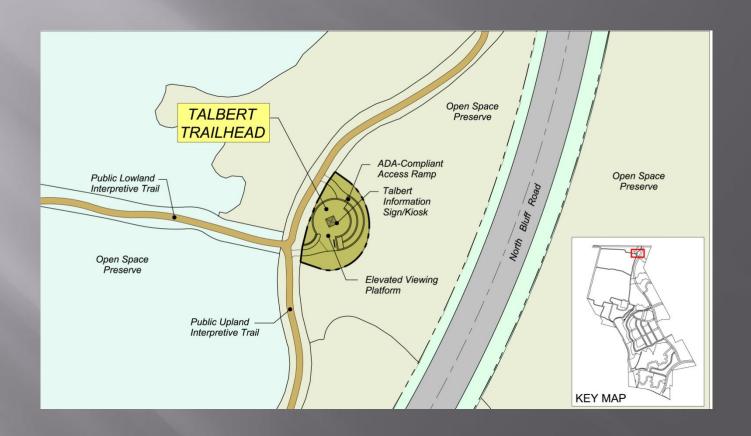




Interpretative Parks

Talbert Tailhead

Talbert Trailhead

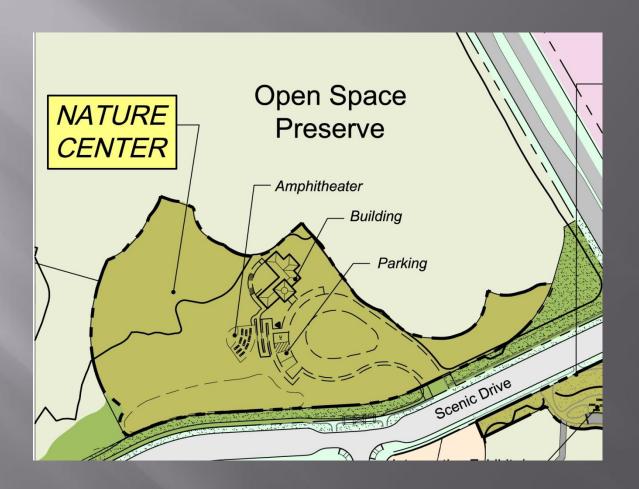


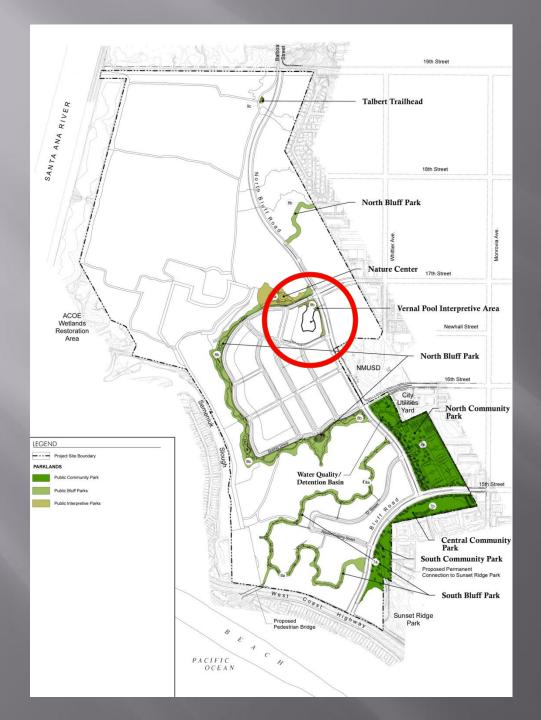


Interpretative Parks

Nature Center

Nature Center

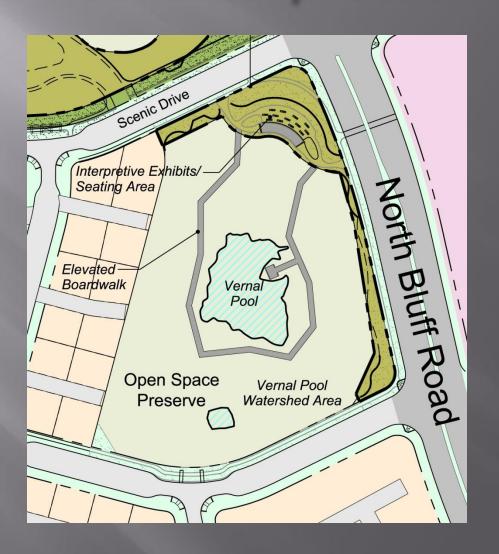




Interpretative Parks

Vernal Pool Interpretative Area

Vernal Pool Interpretative Area





Community Parks

North Community Park

North Community Park



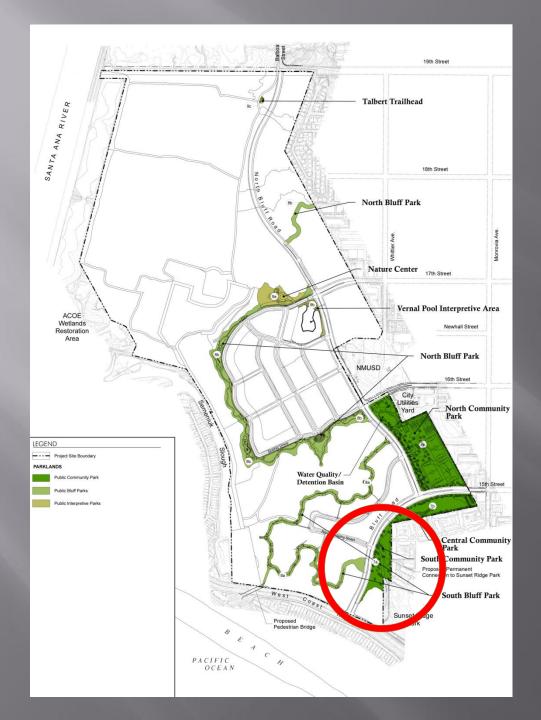


Community Parks

Central Community Park

Central Community Park





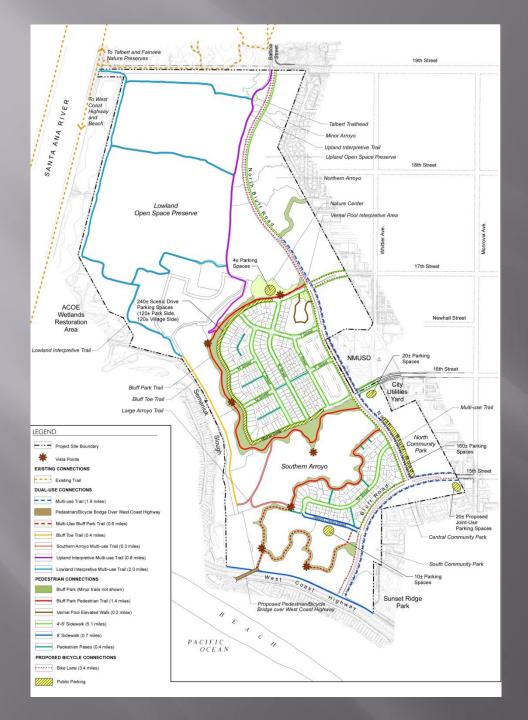
Community Parks

South Community Park

South Community Park

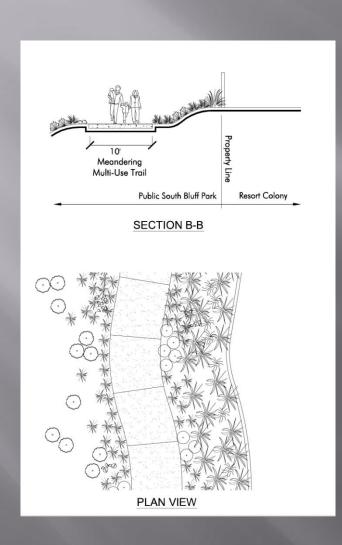


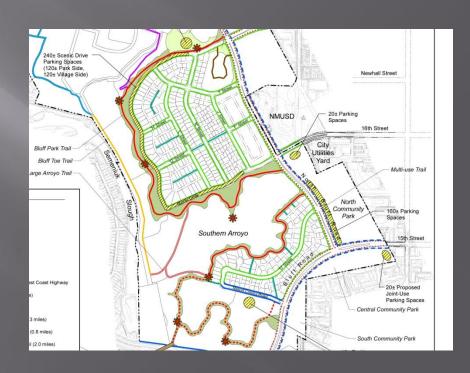
TRAILS



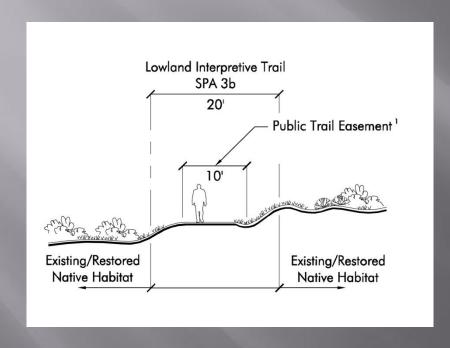
Master Trails and Coastal Access Plan

Bluff Park Trails

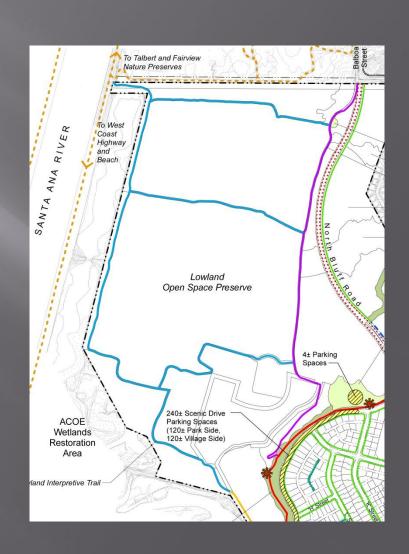




Interpretative Trails



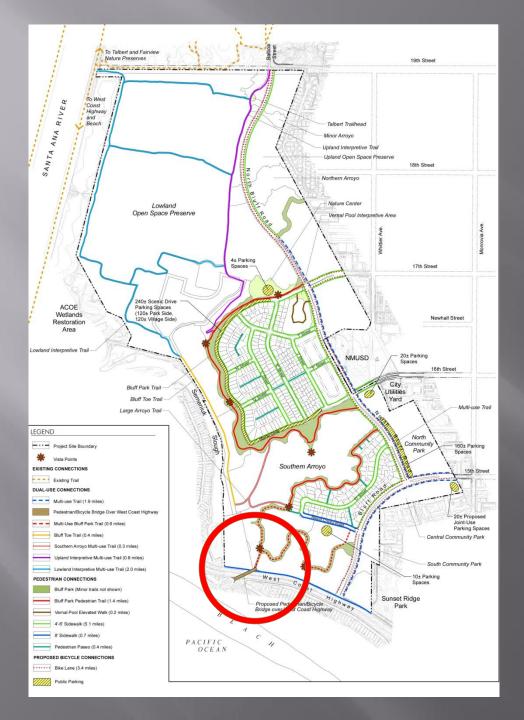
MDP Page 4-7 MDP Page 4-23



Other Trails/Paths

Off-street multi-use trails

- On-street bicycle lanes
- Public sidewalks



Pedestrian Bridge

Pedestrian Bridge







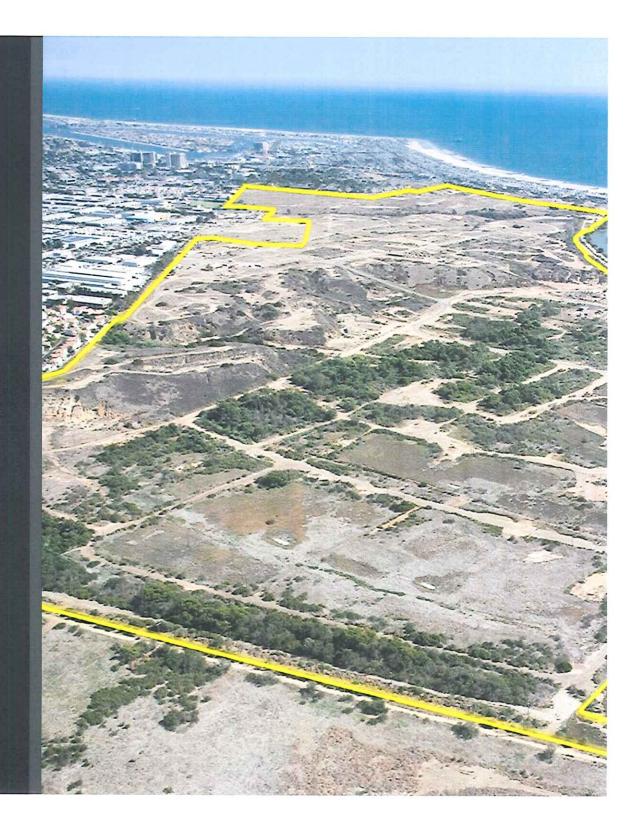


NEWPORT BANNING RANCH

City of Newport Beach Planning Commission Workshop Open Space, Parks & Trails

presented by NBR LLC

February 9, 2012



OPEN SPACE, PARKS & TRAILS











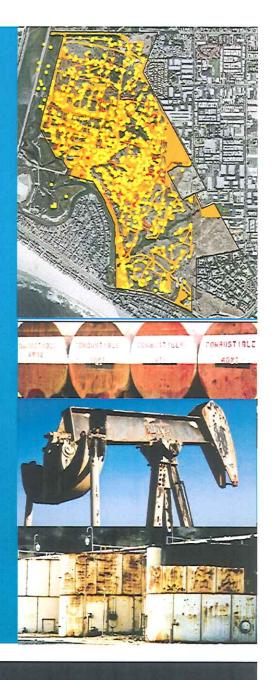






OPEN SPACE, PARKS & TRAILS

- Voter Approved General Plan (development option)
 - o 50% min Open Space
 - o Community Parks, Goal 20-30 acres
 - Master Planned Roads





OPEN SPACE, PARKS & TRAILS

- o NBR Plan
 - More than 75% of site permanently preserved as open space
 - o Oil field footprint reduced 17 acres
 - o Oil abandonment, site clean-up & remediation
 - Comprehensive Habitat Restoration Program
 - Community/Bluff/Interpretive Parks & Trails
 - Public Access
 - Natural Open space maintained at NO cost to taxpayers

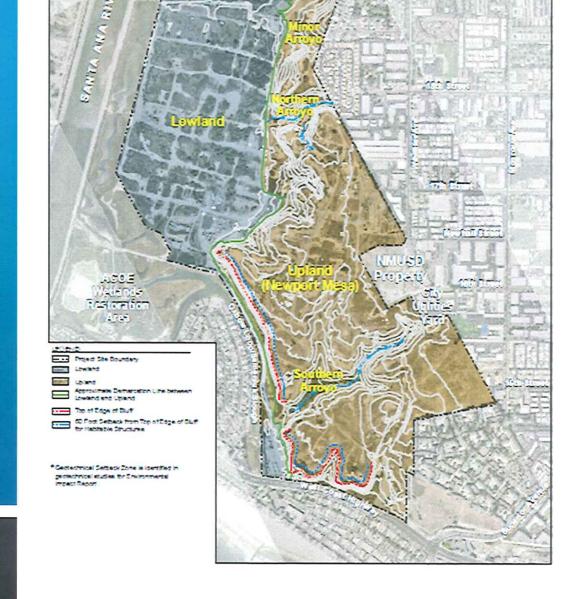






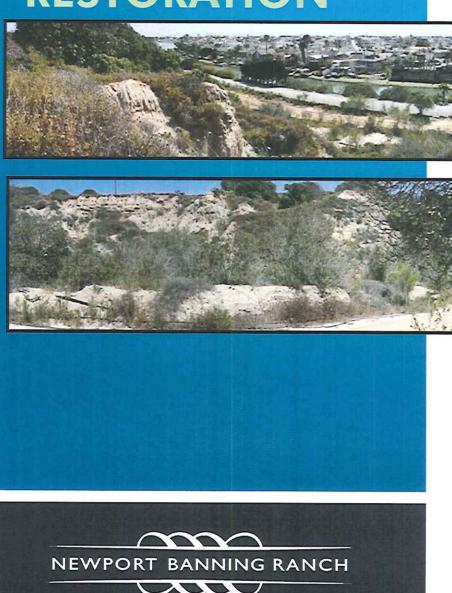
TOPOGRAPHY

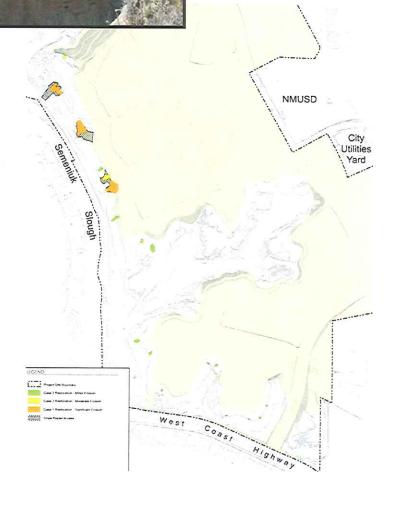
- Two distinct topographic areas
 - Lowland
 - o Upland





BLUFF RESTORATION

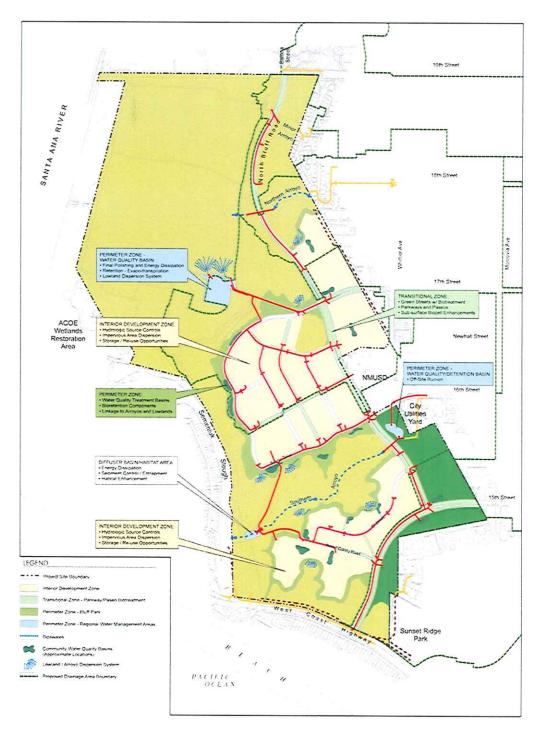




WATER QUALITY

- Offsite run-on treatment
- Lowland basin functionality
- Lowland open space benefits





OPEN SPACE, PARKS & TRAILS

o 76% of project site

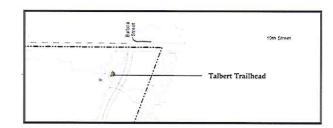


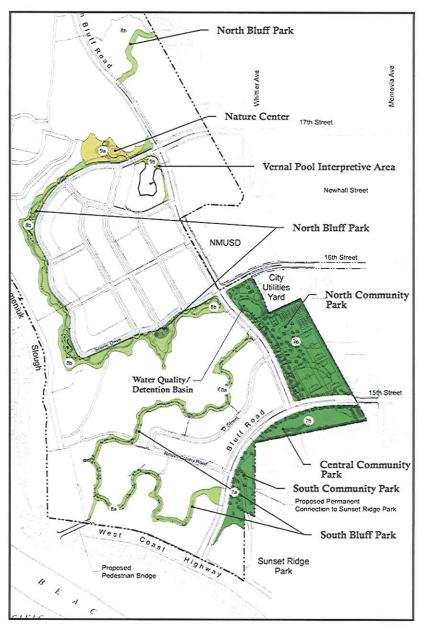


PARKS

- o Community Parks
- o Interpretive Parks
- o Bluff Parks



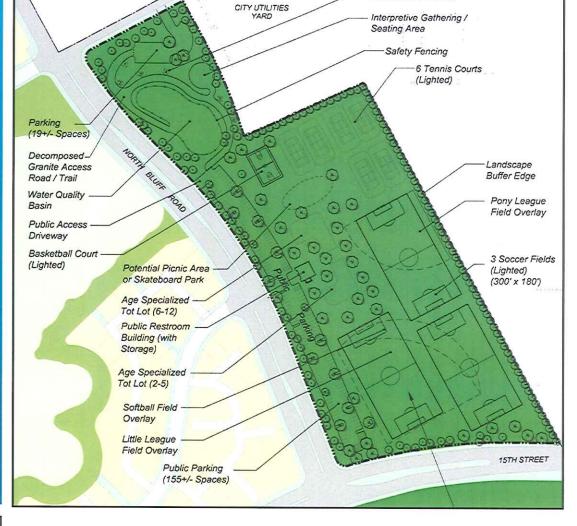




COMMUNITY PARKS







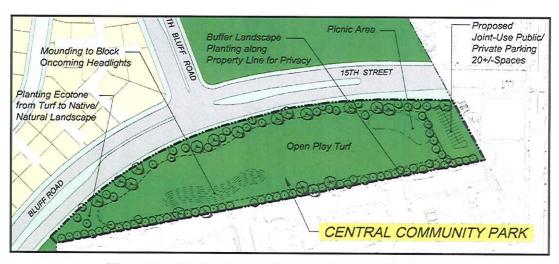
Fitness / Par Course

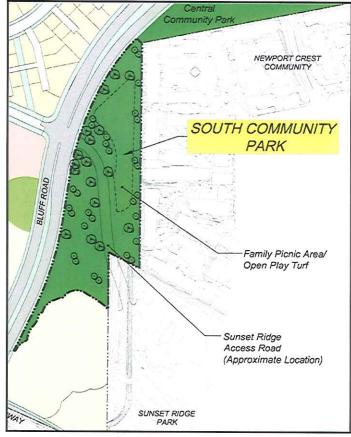


COMMUNITY PARKS

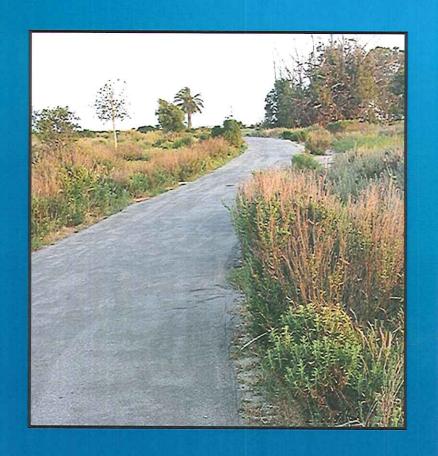




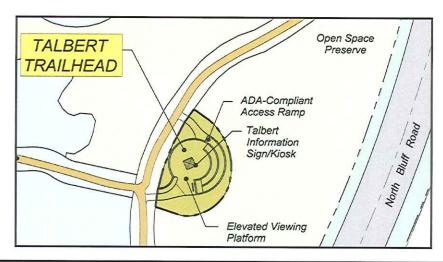


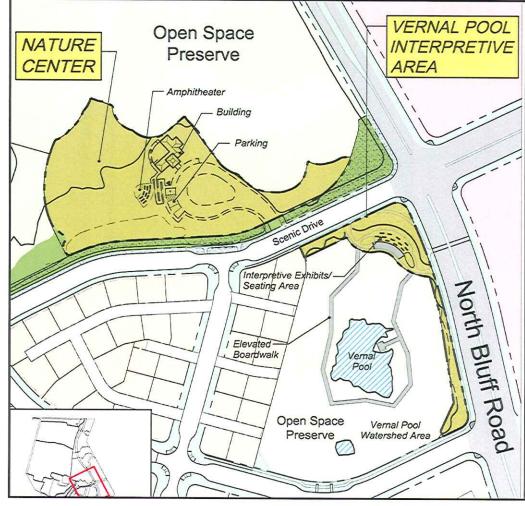


INTERPRETIVE PARKS



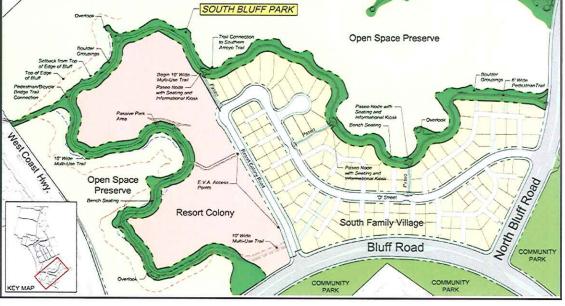






BLUFF PARK







SETBACKS

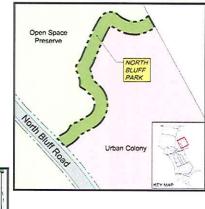




BLUFF PARK

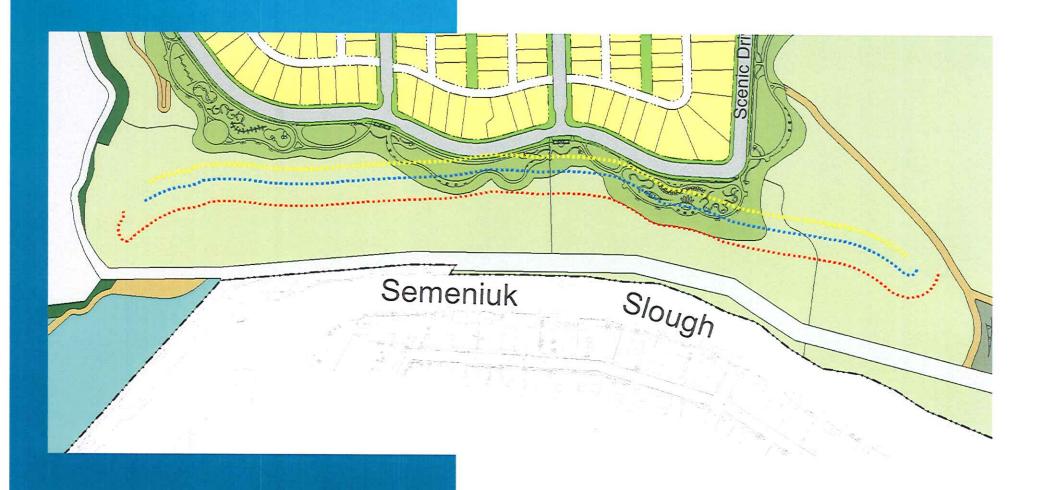






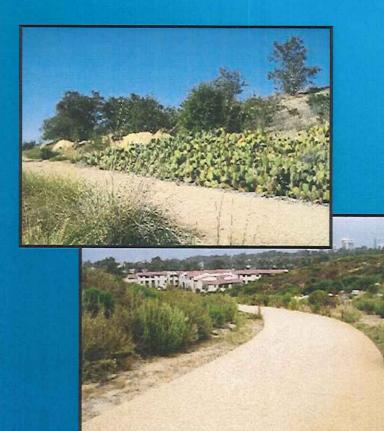


SETBACKS

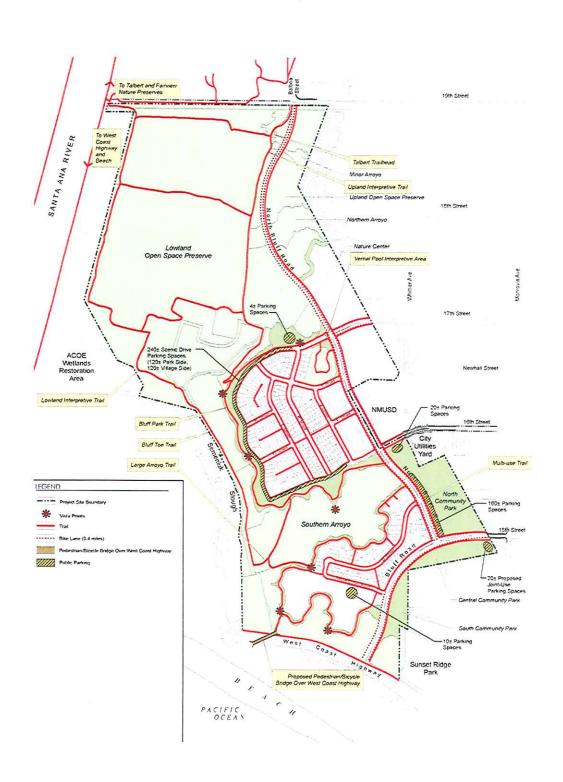




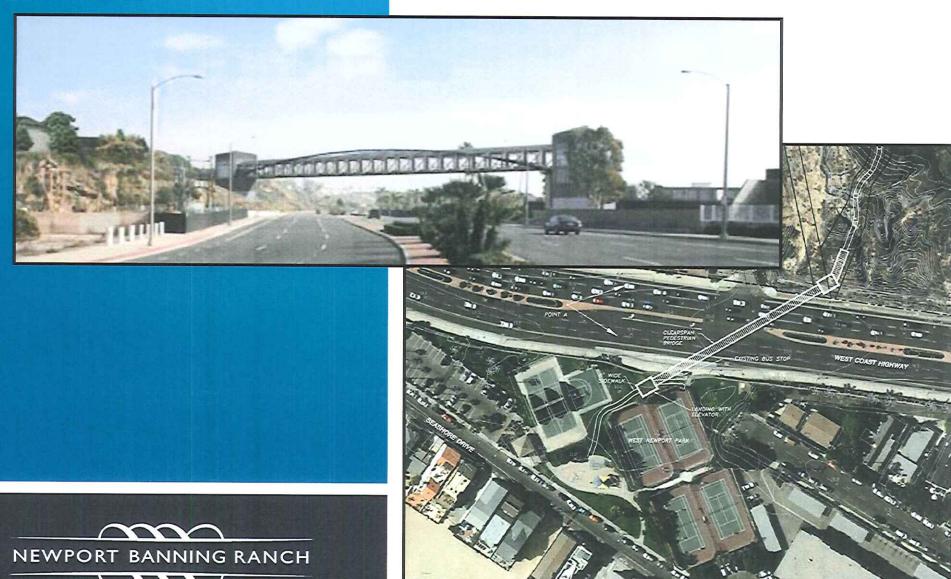
TRAILS







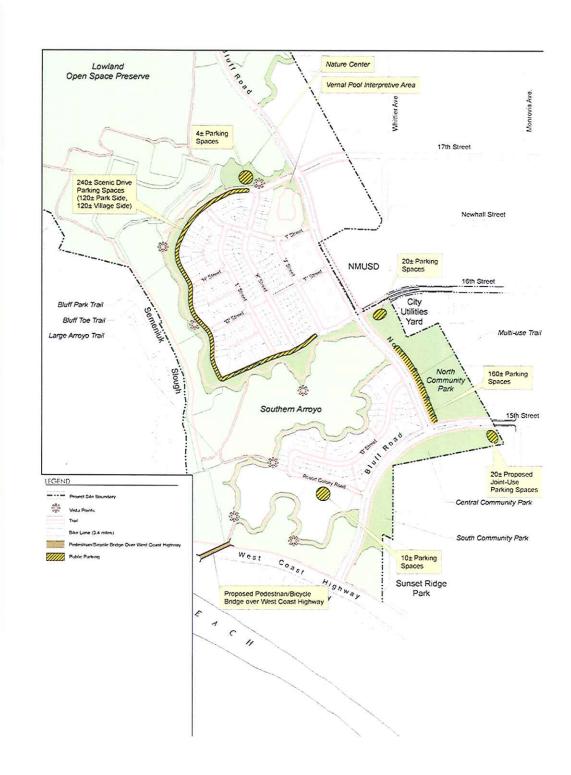
PEDESTRIAN BRIDGE



PARKING

 More than 450 public parking spaces added in the Coastal Zone...



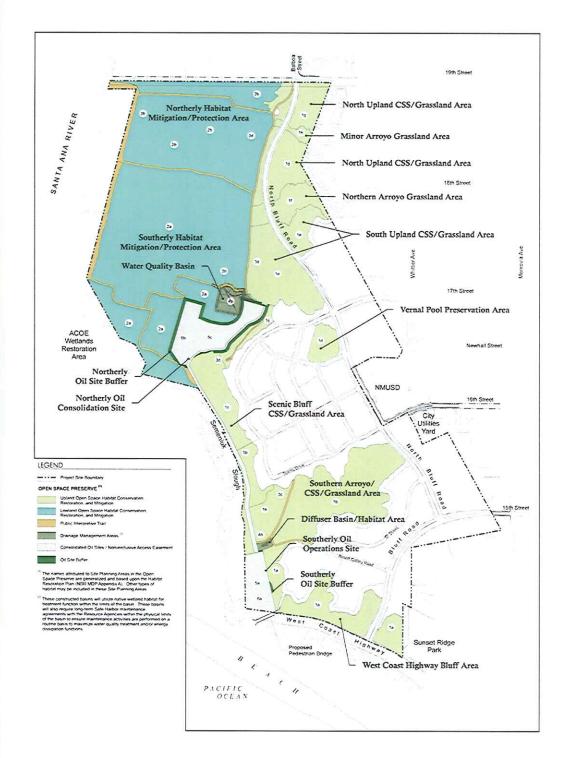


PRESERVE









LOWLAND



Before & After Restoration examples





UPLAND



Before & After Restoration examples









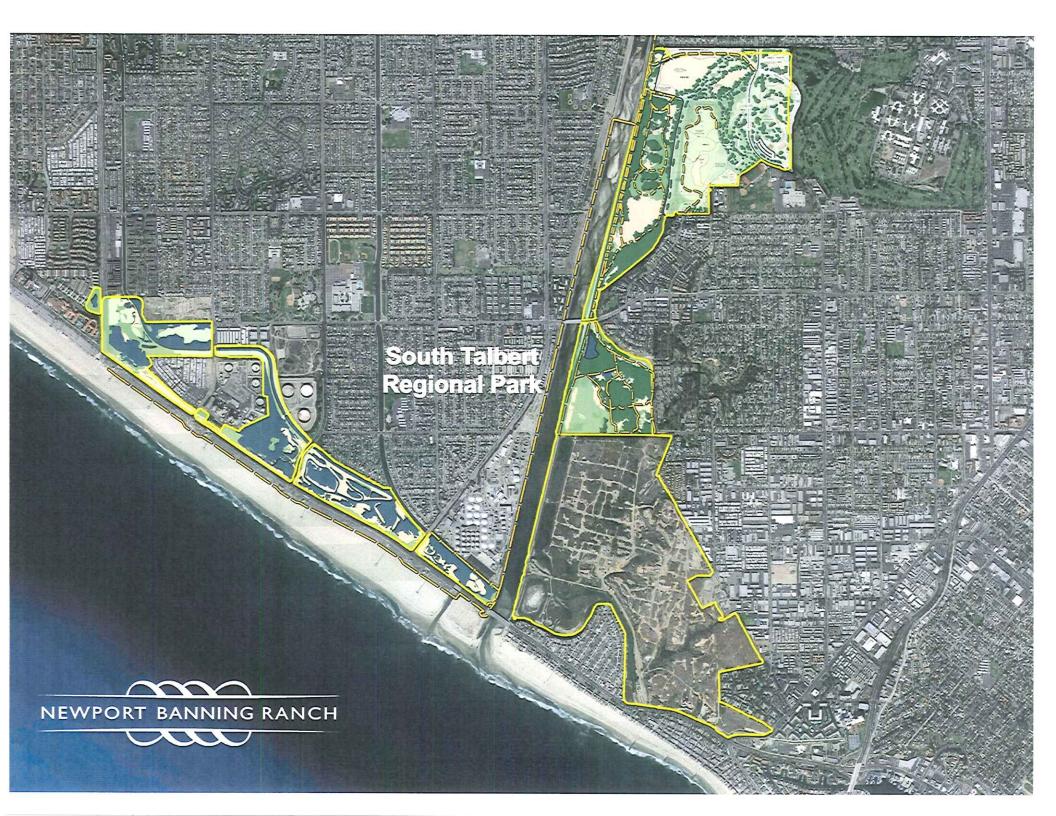
ORANGE COAST RIVER PARK CONTRIBUTION

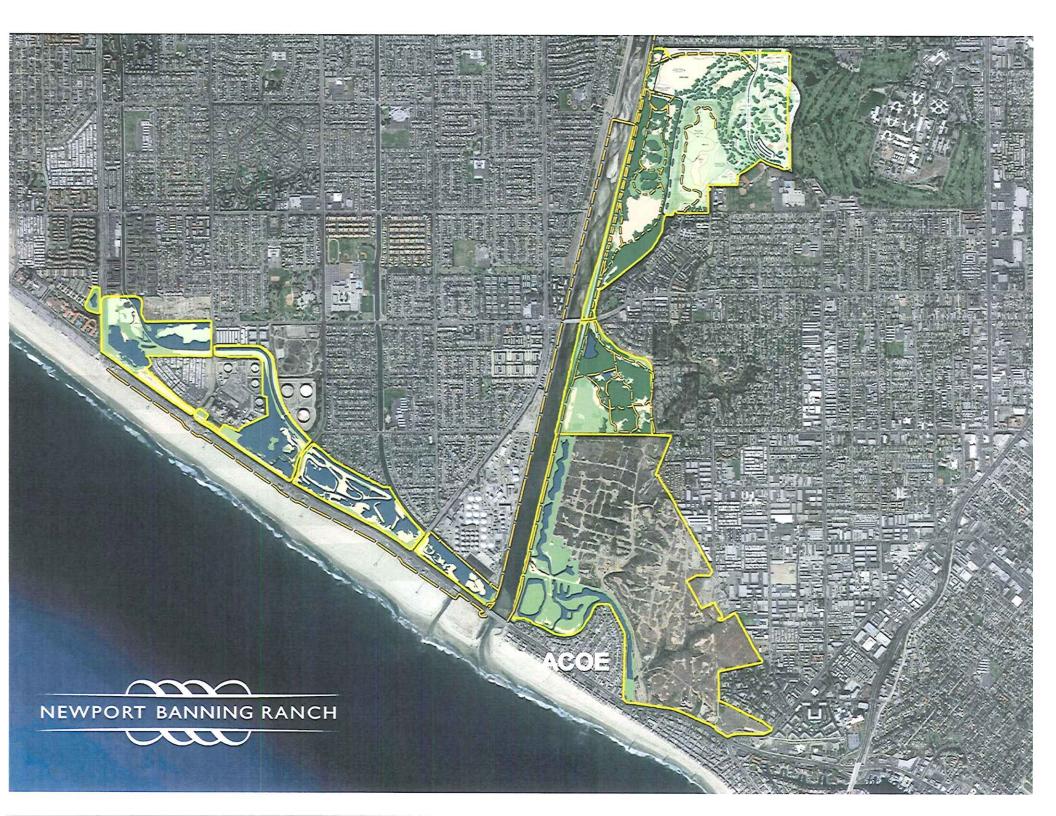




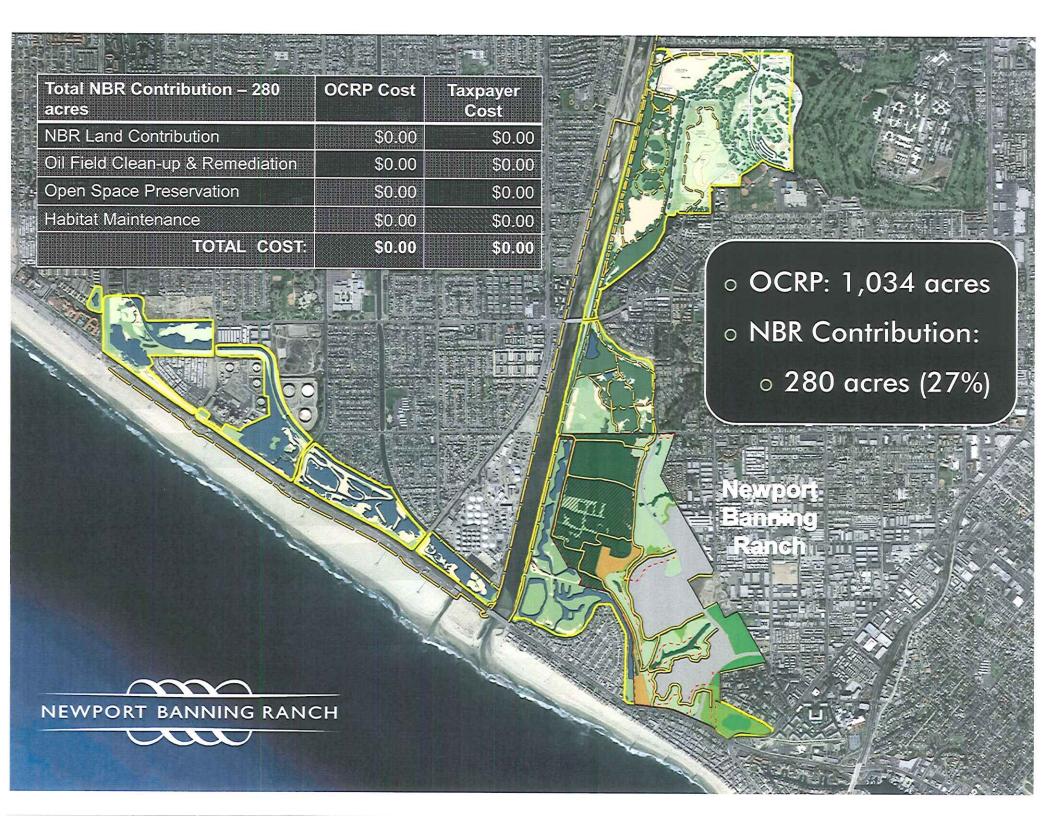














NEWPORT BANNING RANCH

www.newportbanningranch.com



Correspondence Item No. 02c

Newport Banning Ranch Study Session COMMUNITY PA2008-114

February 10, 2012

FEB 1 3 2012

Subject: Newport Banning Ranch Study Session, February 9, 2012

Dear Chairman Toerge,



Please include these comments in the City's administrative record for the Newport Banning Ranch project. Please see below for comments I prepared for last night's study session but was unable to deliver due to meeting time running out.

'My name is Dorothy Kraus, and I live in Newport Beach. I appreciate the opportunity to make a brief comment today.

The Newport Banning Ranch dEIR states that their park requirement is 15 acres based on the City's subdivision code that there be '5 acres of parkland for every 1,000 residents'. The proposed 16 acre North Community Sports Park includes:

6 lighted tennis courts 3 lighted soccer fields 1 liahted basketball court 1 baseball field 1 softball field Skateboard park 2 tot lots 1 fitness par course Public restrooms

And, 174 off-street public parking at two locations, plus the possibility of another 20 parking spaces in a third location.

NBR dEIR Exhibit 4.8-1, North Community Park is enclosed for reference.

This proposed Sports Complex is immense. Are surrounding communities such as Newport Crest, Newport Knolls, One Nautical Mile, and Brook View Newport expected to endure the noise, lights, traffic, pollution, and safety risks associated with this Sports Complex idea? (Highlighted for emphasis)

In addition, the current park location doesn't work because it has been documented as a wintering site for the Burrowing Owl.

I'd also like to make mention of the Coastline Community College project that is under construction at 1515 Monrovia. This is a 3-story 55,000 square foot building with a 300 space parking lot directly adjacent to the structure. This facility butts up to the proposed Sports Complex.

Please refer to the enclosed Newport Banning Ranch dEIR exhibit 4.8.10, Master Trails and Coastal Access plan, and envision the college right under the words '16th Street Parking Spaces', which is just slightly north of 15th street on Monrovia.

Please also refer to the enclosed picture which was taken from Newport Crest of the construction going on at the college. Banning Ranch is in the foreground.

The Newport Banning Ranch dEIR does not address the impacts that will result from this enormous Sports Complex and a 55,000 square foot facility existing side-by-side in such close proximity to residential communities. The degradation in the quality of life for people living in these communities will be significant.

Consideration for moving this Sports Complex somewhere else needs to take place such as relocating it north of 17th street.'

I'd also like to take this opportunity to appreciate your role as a Planning Commissioner. It must be a challenging job to represent such a beautiful city like Newport Beach with so many passionate constituents who desire to keep it pristine and beautiful.

I must tell you that I was disappointed in the Study Session meeting last night. I felt that it was unfair that Mr. Steve Ray was put on the stop and blamed for taking up the public comment time when 3 times he tried to leave the podium. Mr. Tucker initiated the discussion on the Banning Ranch Conservancy's plan to acquire the property which unfortunately went on too long. This unfortunate event is a strong indication that the time of the day and duration of these study session meetings, and the inability for public comments to be made in excess of a few minutes is not working nor fair.

However, I do appreciate that you encouraged Mr. Ray and all of the public to present letters to the Planning Commission making requests such as allowing extended time for the public to comment on a project that will have staggering implications to the City and people who live here. I hope the format of future Newport Banning Ranch Planning Commission meetings is changed to accommodate all vested parties.

Thank you again.

Respectfully submitted,

Dorothy Kraus f 10 Wild Goose Court Newport Beach 92663 medjkraus@yahoo.com 949-337-6651

Enclosures

North Community Park Development Plan

Exhibit 4.8-3

Newport Banning Ranch EIR





(rev 082311 KFD) R:\Projects\Newport\J015\Graphics\EIR\Ex4.8-3_NCommParkDevPlan.pdf





CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT 3300 NEWPORT BOULEVARD, BLDG. C NEWPORT BEACH, CA 92658-8915 (949) 644-3200

Memorandum

To:

Planning Commission

From:

Patrick J. Alford, Planning Manager

Date:

February 3, 2012

Re:

NBR Planned Community Development Plan

Attached is a copy of the proposed Newport Banning Ranch Planned Community Development Plan (NBR-PC). The proposed NBR-PC is being distributed now so that the Commission will have the opportunity to review it prior to the February 23, 2012 study session on land uses, property development regulations, and architectural guidelines. The proposed NBR-PC and the proposed Master Development Plan (distributed on January 23, 2012) will serve as the main source of information for the study session.

The NBR-PC would serve as the zoning regulations for the project site, should the project be approved and annexed to the City. The NBR-PC establishes (1) allowable land uses within each land use district, (2) development regulations for each land use district, (3) general development regulations applicable to all development within the Project site, (4) a plan for circulation and infrastructure facilities to serve development, and (5) procedures for implementing and administering the NBR-PC.

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NEWPORTBANNING RANCH PLANNED COMMUNITY DEVELOPMENT PLAN

APPLICANT

Newport Banning Ranch LLC

1300 Quail Street, Suite 100 Newport Beach, CA 92660

■ Michael A. Mohler, Managing Director Tel: (949) 833-0222

DESIGN TEAM

FORMA Design

Planners & Landscape Architects



- **■** FUSCOE Engineering Civil & Water Quality Engineers
- Glenn Lukos Associates Terrestrial & Wetlands Biologists
- Robert Hidey Architects **Building Architects**
- Bassenian-Lagoni Architects **Building Architects**
- Studio SA Green & LEED Consultants
- **CTG Energetics, Inc.** Green & Sustainable Solutions
- LSA Associates, Inc. Traffic Engineering & Cultural Resources
- **■** Geosyntec Consultants Oil Site Remediation
- **■** Firesafe Planning Fire Safety Solutions

NEWPORT BANNING RANCH

PLANNED COMMUNITY DEVELOPMENT PLAN

Submitted to:

City of Newport Beach

Planning Department 3300 Newport Boulevard Newport Beach, California 92658

u g u s t

Submitted by: Newport Banning Ranch LLC

APPLICANT

Newport Banning Ranch LLC 1300 Quail Street, Suite 100 Newport Beach, CA 92660

Michael A. Mohler, Managing Director Tel: (949) 833-0222

DESIGN TEAM

FORMA Design Planners & Landscape Architects

Fuscoe Engineering Civil and Water Quality Engineers

Glenn Lukos Associates Terrestrial and Wetlands Biologists

Robert Hidey Architects
Building Architects

Bassenian-Lagoni Architects
Building Architects

Studio SA Green & LEED Consultants

CTG Energetics, Inc.
Green & Sustainable Solutions

LSA Associates, Inc. Traffic Engineers & Cultural Resources

Geosyntec Consultants
Oil Site Remediation

Fire Safety Solutions



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INTRODUCTION

1.1 Project Location

The Newport Banning Ranch Planned Community Development Plan (NBR-PC) applies to the approximately 401-acre Newport Banning Ranch site (Project Site) located north of West Coast Highway, south of 19th Street, and east of the Santa Ana River. Exhibit 1-1, Regional Setting Map, and Exhibit 1-2, Vicinity Map, illustrate the Project Site location.

Approximately 41 acres of the Project Site are located within the corporate boundary of the City of Newport Beach (City). Approximately 360 acres of the Project Site are located in unincorporated Orange County, within the City's Sphere of Influence (SOI).

The Project Site is located within the California Coastal Zone as defined by the California Coastal Act.

1.2 Purpose, Authority, and Applicability of the Planned Community Development Plan

1.2.1 Purpose

The purpose of the NBR-PC is to establish appropriate zoning to regulate land use and development of the Project Site consistent with the City's General Plan land use designation for the Project Site of "OS (RV)", Open Space (Residential Village). The NBR-PC establishes zoning regulations ("Regulations") for that portion of the Project Site located within the City and preannexation zoning regulations for that portion of the Project Site located within the City's SOI. Upon annexation of that portion of the Project Site located within the City's SOI, the NBR-PC will serve as zoning for this area.

1.2.2 Authority

The authority for approving the NBR-PC is established within the Newport Beach Municipal Code (NBMC), Chapter 20.16.10, "Planned Community Zoning District" which provides that a PC zoning district is intended for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment; to allow diversification of land uses as they relate to each other in a physical and environmental arrangement while maintaining the spirit and intent of the Zoning Code; and to include a variety of land uses, consistent with the General Plan, through the adoption of a development plan and related text that provides land use relationships and associated development standards.

PLANNED COMMUNITY DEVELOPMENT PLAN

1.2.3 Applicability

No structure shall be constructed, reconstructed, or altered in any manner, nor shall any structure or land be used for any purpose, other than as allowed by these Regulations, except that these Regulations shall not apply to projects within the NBR-PC implemented by the City. The provisions of these Regulations shall be considered the minimum requirements for the promotion of the public health, safety, and general welfare. When these Regulations provide for discretion on the part of a reviewing authority, the discretion may be exercised to impose more or less stringent requirements than required by these Regulations in order to promote orderly land use and development, environmental resource protection, and the other purposes of the NBR- PC.

When used in these Regulations, the words "shall," "must," "will," "is to," and "are to" are always mandatory, and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words "includes" and "including" shall mean "including, but not limited to."

1.3 Relationship to the Municipal Code

Whenever the regulations contained herein conflict with the regulations of the NBMC, the regulations contained herein shall take precedence. The NBMC shall regulate development within the NBR-PC when such regulations are not provided within the NBR-PC.

1.4 Relationship to the California Coastal Act

The Project Site is situated within the boundary of the Coastal Zone as established by the California Coastal Act and is, therefore, subject to the regulatory jurisdiction of the California Coastal Commission. All development within the Project Site shall comply with the requirements of the Coastal Act.

1.5 Severability

If any portion of the NBR-PC is, for any reason, declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, such decision shall not affect the validity of the remaining portions of the NBR-PC. These regulations and each portion of the NBR-PC would have been enacted by the City Council irrespective of the fact that one or more portions may be declared invalid or ineffective.

1.6 Organization of the NBR-PC

The NBR-PC is organized into the following chapters in addition to Chapter 1, Introduction.

Chapter 2, Development Plan

Chapter 2, Development Plan, describes the land use zoning districts for the Project Site. The NBR–PC establishes land use zoning districts to allow for preservation of open space, and for the development of up to 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 overnight accommodations in a visitor serving resort inn, consistent with the City's General Plan. Chapter 2 also describes the plan for circulation and infrastructure facilities to serve planned development.

Chapter 3, Land Use and Development Regulations

Chapter 3, Land Use and Development Regulations, establishes the allowable land uses within each land use zoning district of the Project Site and the regulations governing site development within each land use district.

Chapter 4, Implementation and Administration

Chapter 4, Implementation and Administration, establishes the procedures for agency review of applications for development of the Project Site and for the administration of the NBR-PC.

Chapter 5, Definitions of Terms and Acronyms

Chapter 5, Definitions of Terms and Acronyms, provides a list of defined terms and acronyms used throughout the NBR-PC.

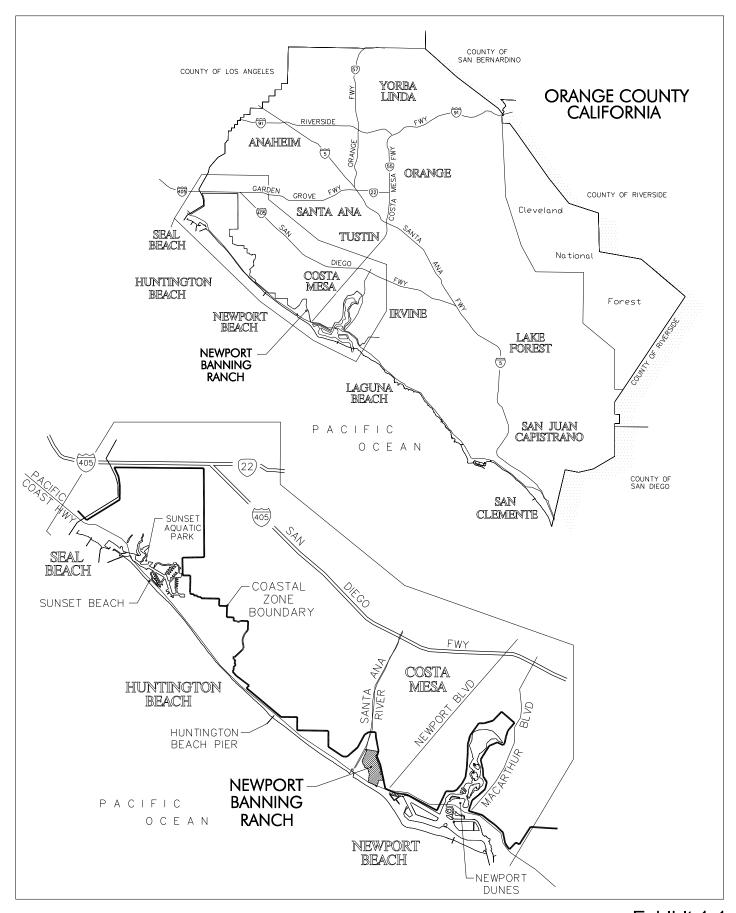




Exhibit 1-1 Regional Setting Map



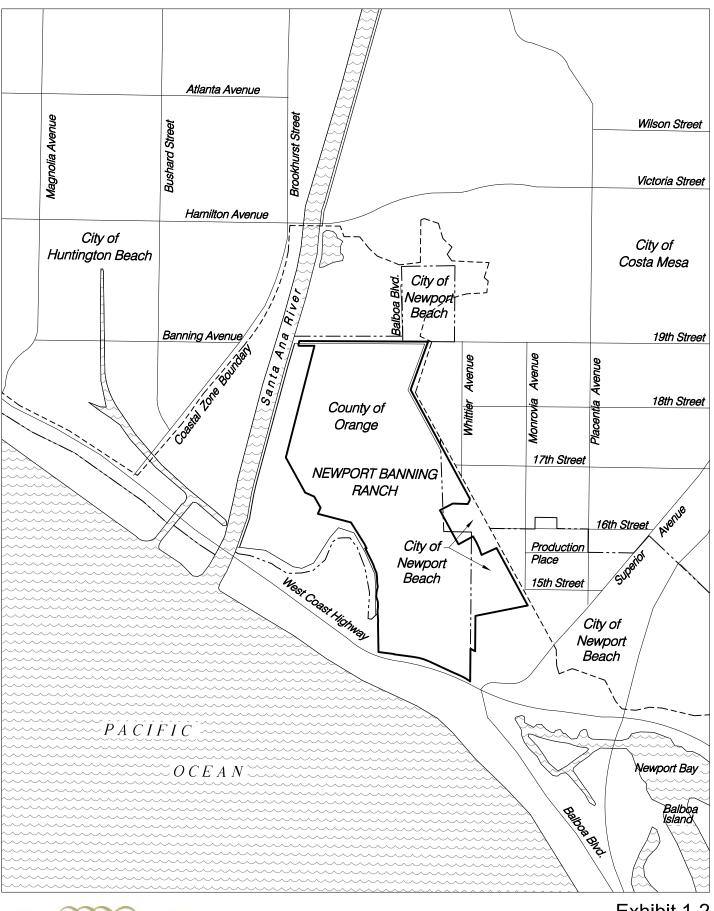




Exhibit 1-2 Vicinity Map



2.1 Purpose and Intent

The purpose of the Development Plan is to provide for the long term administration of land use within the NBR-PC. The Development Plan establishes the land use districts of the NBR-PC and a plan for circulation and infrastructure facilities to serve development allowed pursuant to the NBR-PC.

The Development Plan includes land use district designations for open space, park and recreation, visitor-serving resort, residential, commercial, and mixed-use residential/ commercial uses for the Project Site. The Development Plan includes a circulation plan and infrastructure plans for water, sewer, and drainage facilities adequate to serve planned development.

2.2 Development Plan

The Development Plan of the NBR-PC requires that the majority of the Project Site be reserved for the preservation and restoration of open space, including areas for the consolidation of oil facilities, and allows for the development of a maximum of 1,375 residential dwelling units, a resort/hotel inn with a maximum of 75 rooms and ancillary commercial uses, a maximum of 75,000 square feet of general commercial uses, and park and recreation uses.

2.2.1 Planned Community Land Use Districts

The land use districts of the NBR-PC are illustrated in Exhibit 2-1, "Planned Community Development Plan." The NBR-PC is comprised of five major land use districts as described below:

- 1. Open Space Districts, to include Lowland and Upland Open Space/Public Trails and Facilities Districts for habitat restoration and permanent preservation, public interpretive trails, drainage management and water quality treatment facilities, and an Interim Oil Facilities District allowing for the consolidation of surface oil production facilities and the continued operation of existing and new oil production operations. Upon the ultimate cessation of oil operations in the Interim Oil Facilities land use district, the surface oil production facilities will be abandoned, and this area will be remediated and cleaned for use as permanent open space.
- 2. **Public Parks and Recreation Districts**, to allow for development of a public Community Park providing active and passive recreational facilities and public Bluff Parks and Interpretive Parks for passive recreational use.

DEVELOPMENT PLAN

- 3. **Visitor-Serving Resort/Residential District**, to allow for a maximum 75-room resort inn to include ancillary uses such as restaurants and bars, spas, fitness centers, meeting and banquet facilities, retail shops, and other similar complementary visitor-serving commercial uses or free standing visitor serving retail uses without a resort inn component. This district also allows for resort-oriented residential units of up to 40.0 dwelling units per gross acre if developed in conjunction with the resort inn, for development of residential land uses of up to 9.0 dwelling units per gross acre within the entire district, with or without visitor-serving commercial uses, in the event the resort inn or free standing visitor serving retail uses are not developed in this district.
- 4. Residential Districts, to include a Low Density Residential District which allows development of up to 8.0 residential dwelling units per gross acre, a Low-Medium Density Residential District which allows development of up to 16.0 residential dwelling units per gross acre, and a Medium Density Residential District which allows development of up to 24.0 residential dwelling units per gross acre. These districts allow for development of single-family detached dwelling units, single-family attached dwelling units, and multi-family dwelling units, as well as private recreational facilities intended to serve the residents of the development. Up to 2,500 square feet of convenience commercial uses are permitted within either the Low-Medium or the Medium Density Residential District pursuant to the provisions of NBR-PC Section 2.6, "Residential Districts."
- 5. **Mixed-Use/Residential District,** to allow development of residential uses of up to 40.0 dwelling units per gross acre, and up to 75,000 square feet of commercial uses in either a vertical mixed use configuration, with commercial uses on the ground floor and residential above, or as a horizontal mixed use configuration with commercial uses and residential uses in separate buildings designed as a cohesive and unified development. This district allows for residential single family attached or multi-family residential dwelling units and ancillary private recreational facilities to serve the residents of the development combined with neighborhood serving commercial uses such as a grocery market, restaurants, personal services, and professional offices.

2.2.2 Planned Community Development Table

The land use statistical summary for the NBR-PC is described in Exhibit 2-2, "Planned Community Development Table." The table describes the gross acreage within each land use district, along with the allowable planned number of dwelling units, the maximum allowable density, the maximum commercial square footage allowed, and the maximum number of overnight accommodations (guest rooms) allowed within the resort inn.

The term "planned dwelling units" in Exhibit 2-2, refers to the development program for each residential district. The land use district boundaries, gross acreages, and planned dwelling units described in Exhibit 2-2 may be refined pursuant to the provisions of NBR-PC Section 4.17, "Minor Modifications" of the NBR-PC.

2.3 Open Space Districts

The purpose of the Open Space Districts is to designate approximately 252.3 gross acres within the NBR-PC for permanent Open Space use. The Open Space Districts include a Lowland Open Space/Public Trails and Facilities (LOS/PTF) District, an Upland Open Space/ Public Trails and Facilities (UOS/PTF) District, and an Interim Oil Facilities (OF) District.

2.3.1 Lowland Open Space/Public Trails and Facilities District (LOS/PTF)

Approximately 130.6 gross acres are designated as LOS/PTF which allows for preservation and restoration of native habitat and open space, public interpretive trails with connections to the existing Santa Ana River Trail located west of the Project Site, public view areas overlooking open space, drainage management and water quality treatment facilities, and planting buffers adjacent to portions of the OF District to visually soften the appearance of the oil facilities from other areas of the Project Site.

2.3.2 Upland Open Space/Public Trails and Facilities District (UOS/PTF)

Approximately 105.2 gross acres are designated as UOS/PTF which allows for preservation and restoration of native habitat and open space, public view overlooks, and public interpretive trails with connections to residential land use districts, public parks, and existing trails located to the west and north of the Project Site, and water management facilities, and planting buffers adjacent to portions of the OF District to visually soften the appearance of the oil facilities from other areas of the Project Site.

2.3.3 Interim Oil Facilities District (OF)

Approximately 16.5 gross acres are designated as OF which allows for the continued operation of surface oil production and processing facilities, which include: 1) existing oil operations adjacent to West Coast Highway; 2) existing and new oil production facilities planned for consolidation on an existing oil operations site adjacent the LOS/PTF; and 3) a non-exclusive easement to include an oil access roadway connecting the two surface oil production sites described in 1) and 2) above.

2.4 Public Parks/Recreation Districts

The purpose of the Public Parks/Recreation Districts is to designate approximately 51.4 gross acres to allow for development of public parks and recreation use within the NBR-PC to serve residents of the Project Site and the community at large. All areas designated as Public Parks/Recreation Districts shall be permanently available for public use either through offers of dedication to the City, deed restrictions, and/or recorded public access easements. The public park developed as part of the Project within the Community Park District shall be offered for dedication to the City, and upon acceptance, shall be maintained by the City. Areas within the Bluff Park District and Interpretive Park District shall be developed as part of the Project, permanently accessible to the public, and privately-owned and maintained by a Homeowners Association (HOA), Conservancy, Land Trust, or similar entity.

2.4.1 Community Park District (CP)

Approximately 26.8 gross acres designated as CP shall be developed as a public Community Park as part of the Project and offered for dedication to the City to serve the active recreational needs of the Project residents and the community at large. Recreational facilities and uses permitted within the CP District include active lighted sports fields and courts, a picnic shelter, open play grounds, a skate park, restrooms, and public parking. Other active and passive park and recreation uses may be determined by the City at the time of final park design.

2.4.2 Bluff Park District (BP)

Approximately 20.9 gross acres are designated as BP to serve as a passive recreational area and a buffer between the Visitor-Serving Resort/Residential District and Open Space Districts. Passive recreational uses allowed within the Bluff Park include footpaths, view overlooks, picnic and informal gathering areas, a bluff-top trail, and an access point to a pedestrian/bicycle bridge over West Coast Highway.

2.4.3 Interpretive Parks District (IP)

Approximately 3.7 gross acres are designated as IP allowing passive recreational uses within and adjacent to Open Space Districts. Uses allowed in the IP District include a nature center, which may include offices for the HOA and open space steward, interpretive facilities and exhibit areas, trailheads, parking for staff and the public, and other passive uses complementary to and supportive of the Project's Open Space Districts.

2.5 Visitor-Serving Resort/Residential District (VSR/R)

The purpose of the Visitor-Serving Resort/Residential District is to designate approximately 11.3 gross acres to allow for development of a resort inn and resort oriented residential uses within the NBR-PC. Uses allowed within the VSR/R District include:

- 1. A resort inn of up to 75 overnight accommodations (guest rooms), a lobby and related guest areas, and support commercial uses ancillary to a resort, such as, restaurant(s) and bar(s), gift and sundry shops, business center(s), fitness center(s), spa/salon/treatment rooms, swimming pools and recreation facilities, banquet and meeting rooms, areas for food and beverage preparation, administrative offices, housekeeping areas, maintenance areas, and employee facilities. Visitor serving commercial uses included as part of a resort inn development shall not be counted as part of the maximum 75,000 square feet of commercial area permitted within the NBR-PC.
- 2. Resort-oriented residential dwelling units to be developed as part of the resort, to be conventionally-owned as residential properties rather than as fractional vacation properties, and whose residents may be afforded opportunities for use of the resort facilities and amenities. The resort oriented residential dwelling units shall be counted as part of the maximum 1,375 residential dwelling units permitted within the NBR-PC.
- 3. Up to 100 conventionally-owned residential dwelling units, in the event a resort inn is not developed in the VSR/R district. These residential dwelling units shall be counted as part of the maximum 1,375 residential dwelling units permitted within the NBR-PC.
- 4. Visitor-serving commercial uses independent of a resort use such as, restaurant(s) and bars, gift and sundry shops, business centers, fitness centers, spas and salons, swimming pools and recreation facilities and similar uses are permitted in the event a resort inn is not developed. This type of visitor serving commercial use shall be counted as part of the maximum 75,000 square feet of commercial area permitted within the NBR-PC.

2.6 Residential Districts

The purpose of the Residential Districts is to designate approximately 65.2 gross acres to allow for residential development within the NBR-PC. Three separate Residential Districts are established to provide a variety of housing types and sizes.

Residential Districts allow for the development of a variety of home types, as well as privately owned and maintained recreational facilities. Up to 2,500 square feet of convenience commercial use are permitted within either the Low-Medium Density or Medium Density Residential District, subject to the provisions below.

2.6.1 Low Density Residential District (RL)

Approximately 26.1 gross acres are designated as RL to allow for development of residential uses at a maximum density of 8.0 dwelling units per gross acre. The RL District allows for the development of single-family detached dwellings, single-family attached dwellings, and private recreational facilities.

2.6.2 Low-Medium Density Residential District (RL/M)

Approximately 11.8 gross acres are designated as RL/M to allow for development of residential uses at a maximum density of 16.0 dwelling units per gross acre. The RL/M District allows for the development of single-family detached dwellings, single-family attached dwellings, multi-family dwellings, and private recreational facilities. A small Convenience Commercial center of up to 2,500 square feet in size is allowed in the RL/M district provided no other convenience commercial center has been developed in the RM District and the total area of commercial uses within the Project Site does not exceed 75,000 square feet.

2.6.3 Medium Density Residential District (RM)

Approximately 27.3 gross acres are designated as RM to allow for development of residential uses at a maximum density of 24.0 dwelling units per gross acre. The RM District allows for the development of single-family detached dwellings, single-family attached dwellings, multi-family dwellings, and private recreational facilities. A small Convenience Commercial center of up to 2,500 square feet in size is allowed in the RM district provided no other convenience commercial center has been developed in the RL/M District and the total area of commercial uses within the Project Site does not exceed 75,000 square feet.

2.6.4 Mixed-Use/Residential District (MU/R)

Approximately 20.9 gross acres are designated as MU/R to allow for development of commercial and high density residential uses as either horizontal and/or vertical mixed-use development projects. The MU/R land use district is intended for development of a more urban environment within the Project Site.

The MU/R District allows for development of residential uses at a maximum density of 40.0 dwelling units per gross acre, commercial uses up to a maximum of 75,000 square feet (or as adjusted downward for any convenience commercial developed within the RL/M and RM Districts or visitor serving commercial developed independent of a resort inn in the VSR/R District), and private recreational facilities.

Mixed-use development may be designed as "horizontal mixed-use" with residential uses and commercial uses as separate, free standing structures located adjacent to one another or as "vertical mixed-use" with commercial uses located on the ground floor of the building and residential uses located on floors above. The MU/R District is intended for pedestrian-oriented commercial development providing a broad range of retail services within convenient walking distance of residences.

Commercial development within the MU/R District shall be designed to serve the residents within the Project Site and existing and future residents near the Project Site. Commercial uses allowed in the MU/R District may include, but are not limited to, a neighborhood serving market, local serving restaurants, coffee shops, personal convenience services (such as a dry cleaners and/or hair salons), and professional offices.

2.7 Circulation

2.7.1 Roadway Plan

The NBR-PC includes a network of new public roadways to be constructed within the Project Site, providing access from existing West Coast Highway, 15th Street, 16th Street, 17th Street, and 19th Street.

The roadway system planned for the Project Site is illustrated in Exhibit 2-3, "Conceptual Roadway Plan and Key Map." A hierarchy of streets shall be constructed as part of the Project, including primary roadways connecting to existing public arterial roadways, and local roads and private alleys to serve development within the Project Site.

2.7.2 Project Entries and Off-Site Improvements

1. West Coast Highway-Bluff Road Entry/Intersection Improvements

The primary entrance to the Project will be constructed at Bluff Road and the intersecting point with West Coast Highway as illustrated in Exhibit 2-4, "West Coast Highway – Bluff Road Entry/Intersection Improvements." A T-intersection shall be constructed at the intersection of Bluff Road with West Coast Highway and additional widening of a portion of West Coast Highway shall occur as part of the Project. West Coast Highway is currently owned and maintained by the California Department of Transportation (Caltrans), and therefore permits required for improvements to the highway shall be coordinated with and approved by Caltrans.

The design for West Coast Highway is illustrated on Exhibits 2-4 and 2-11, "Sections K-K and L-L – West Coast Highway." As shown on these exhibits, the improvements to West Coast Highway include widening improvements at the Bluff Road entry to the Project Site and intersection improvements such as median turn pockets and lane striping. A public sidewalk shall be constructed along West Coast Highway adjacent to the Project Site.

2. 15th Street Entry/and Park Access Off-Site Improvements

An entry to the Project Site shall be constructed at the terminus of 15th Street at the easterly Project Site boundary. Improvements to 15th Street shall be constructed from Monrovia Street westerly to the Project Site boundary and within the Project Site to Bluff Road. The City's General Plan designates 15th Street as a Primary Road. As part of the Project 15th Street shall be widened off-site between Monrovia Street and the Project Site boundary. Exhibit 2-5, "15th Street Entry and Off-Site Improvements," illustrates the off-site area along 15th Street to be widened, as part of the Project and the design for the Project entry at 15th Street.

3. 16th Street Entry/Off-Site Improvements

An entry to the Project Site shall be constructed at the terminus of 16th Street at the easterly boundary of the Project Site. Off-site improvements to 16th Street shall be constructed as part of the Project from the terminus of 16th Street and the Project Site boundary westerly to Bluff Road. The widening of 16th Street and the improvement area at the Project entry at 16th Street to be constructed as part of the Project are illustrated on Exhibit 2-6, "16th Street Entry and Off-Site Improvements."

4. North Bluff Road Off-Site Improvements

North Bluff Road is a General Plan designated Primary Roadway. The full improvement of North Bluff Road as a Primary Roadway shall be constructed as part of the Project with a portion of the improvements to be constructed off-site. Exhibit 2-7, "North Bluff Road Off-Site Improvements," illustrates the off- site area to be improved as part of the Project.

5. <u>17th Street Entry Improvements</u>

An entry to the Project Site shall be constructed at the terminus of 17th Street at the easterly boundary of the Project Site, and 17th Street shall be constructed as a Primary Roadway from the entry westerly to North Bluff Road. Exhibit 2-8, "17th Street Entry Improvements," illustrates the design of the Project entry and the improvements to 17th Street from its terminus at the boundary of the Project Site to North Bluff Road to be constructed as part of the Project.

6. 19th Street Entry/Off-Site Improvements

An entry to the Project shall be provided at an intersecting point of North Bluff Road and existing 19th Street located at the Project's northern property line. The design of the 19th Street entry and off-site improvements to 19th Street to be constructed as part of the Project is illustrated on Exhibit 2-9, "19th Street and North Bluff Road Entry and Off-Site Improvements." Adequate right-of-way shall be reserved for a potential future extension of 19th Street to be constructed by the City, County, and/or other public agency to the Santa Ana River

7. Pedestrian/Bicycle Bridge

A Pedestrian/Bicycle Bridge shall be provided over West Coast Highway from the south-western edge of the Resort Colony to West Newport Park. The bridge will be designed to accommodate both pedestrians and bicyclists, as well as be ADA compliant, as shown on Exhibit 2-4, "West Coast Highway – Bluff Road Entry/Intersection Improvements."

2.7.3 Traffic-Calming Design Features

In order to reduce speeds of motorists and enhance the pedestrian experience, traffic-calming design features shall be constructed as approved by the City Engineer within local streets of the NBR-PC. Traffic-calming features include mid-block tapers and tapers/chokers at intersections and modified knuckles. Examples of these elements are illustrated on Exhibit 2-10, "Traffic-Calming Design Features." Other traffic-calming design features may be constructed pursuant to approval of the City Engineer.

2.7.4 Internal Project Roadways

The following sections describe the proposed internal arterial and local roadways for the Project Site:

1. <u>Bluff Road from West Coast Highway to 15th Street; and North Bluff Road from 15th Street to 16th Street</u>

The design for Bluff Road from West Coast Highway to 15th Street and the design for North Bluff Road from 15th Street to 16th Street are illustrated in Exhibit 2-12. Both Bluff Road and North Bluff Road shall be constructed with two travel lanes and a five-foot-wide striped on-street bike lane in each direction. An eight-foot-wide walkway meandering within the roadway right of way and the adjacent Community Park and separated from the street by a varying-width landscaped bioswale, shall be constructed on the east side of the road. A five-foot-wide walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on the west side of the road except that, to avoid native habitat, no sidewalk shall be constructed on the west side of Bluff Road between West Coast Highway and Resort Colony Road. A 16-foot-wide landscaped median will be constructed along this length of both Bluff Road and North Bluff Road. On-street parking shall be prohibited along Bluff Road and North Bluff Road.

2. North Bluff Road from 16th Street to 17th Street

The design for North Bluff Road from 16th Street to 17th Street is illustrated in Exhibit 2-13. North Bluff Road from 16th Street to 17th Street shall be constructed with two travel lanes and a five-foot-wide striped on-street bike lane in each direction. An eight-foot-wide walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on the east side of the road and a five-foot-wide walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on the west side of the street. A 16-foot-wide landscaped median shall be constructed along this length of North Bluff Road. On-street parking shall be prohibited within this segment of North Bluff Road.

3. North Bluff Road from 17th Street to 19th Street

The design for North Bluff Road is illustrated in Exhibit 2-14. The portion of North Bluff Road from 17th Street to a portion of the Bluff Park land use district shall be constructed with two travel lanes and a five-foot-wide striped on-street bike lane in one direction, and one travel lane and a five-foot-wide striped on-street bike lane in the other direction. An eight-foot-wide walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on the east side of the road and a 10-foot-wide curb-adjacent landscaped bioswale, shall be constructed on the west side of the road. A 14-foot-wide landscaped median shall be constructed along this length of North Bluff Road.

The portion of North Bluff Road from the Bluff Park land use district to 19th Street shall be constructed with one travel lane and a five-foot-wide striped on-street bike lane in each direction. A six-foot-wide pedestrian walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on the east side of the street and a 10-foot-wide curb-adjacent landscaped bioswale shall be constructed on the west side of the street. A six-foot-wide striped median shall be constructed along this portion of North Bluff Road. On-street parking shall be prohibited within this segment of North Bluff Road.

4. 15th Street from Project Entry to Bluff Road

The design for 15th Street within the Project Site is illustrated in Exhibit 2-15. 15th Street within the Project Site shall be constructed with two travel lanes and a five-foot-wide, striped, on-street bike lane in each direction. The roadway shall be divided by a 16-foot-wide landscaped median. An eight-foot-wide pedestrian walkway separated from the street by a varying-width, landscaped bioswale shall be constructed on each side of the street. On-street parking shall be prohibited within 15th Street.

5. 16th Street from Project Entry to North Bluff Road

The design for 16th Street within the Project Site is illustrated in Exhibit 2-15, 16th Street within the Project Site shall be constructed with 40 feet of paved width, which may accommodate one travel lane in each direction and parking on both sides of the street. A five-foot-wide pedestrian walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on each side of the street.

6. <u>17th Street from Project Entry to North Bluff Road</u>

The design for 17th Street within the Project Site is illustrated in Exhibit 2-15. 17th Street within the Project Site shall be constructed with two travel lanes and a five-foot-wide, striped, on-street bike lane in each direction. A five-foot-wide pedestrian walkway, separated from the street by a nine-foot-wide landscaped bioswale, shall be constructed on both sides of the street. A 16-foot-wide

landscaped median shall be constructed along the length of 17th Street within the Project Site. On-street parking shall be prohibited within 17th Street.

7. Resort Colony Road

Resort Colony Road shall connect to Bluff Road and a local road that serves the South Family Village. Resort Colony Road shall be constructed with one travel lane in each direction. Onstreet parking may be allowed on both sides of the street. An eight-foot-wide pedestrian walkway, separated from the street by an eight-foot-wide landscaped bioswale, shall be constructed on each side of the roadway. The design for Resort Colony Road is illustrated in Exhibit 2-16.

8. Scenic Drive

Scenic Drive, a local road, shall extend around residential land use areas adjacent to the Bluff Park land use district and connect to North Bluff Road at 16th and 17th Streets. Scenic Drive shall be constructed with one travel lane and one curb-adjacent parking lane in each direction. A four-foot-wide pedestrian walkway, separated from the street by a six-foot-wide landscaped parkway, shall be constructed on the side of the roadway adjacent to residential uses. A bluff-top trail shall be developed on the opposite side of the roadway within the Bluff Park land use district. The design for the Scenic Drive is illustrated in Exhibit 2-16.

9. Typical Local Roads

Typical local roads are those roads other than Resort Colony Road and Scenic Drive providing internal access and circulation within the Project Site. Typical local roads shall be constructed throughout the Project Site with one travel lane and one curb-adjacent parking lane in each direction. A four-foot-wide pedestrian walkway, separated from the street by either a six-foot-wide landscaped parkway or an eight-foot-wide landscaped bioswale depending upon the location, shall be constructed on both sides of the street. The design for Local Roads is illustrated in Exhibit 2-17.

10. Private Alleys

Private alleys shall be constructed with a minimum width of 28 feet between lower levels of buildings (architectural elements may overhang a maximum of three feet on upper levels) with a varying width 20- to 24-foot-wide paved travel lane and a three- to four-foot-wide area for landscaping and garage access on each side of the alley. Parking shall be prohibited within private alleys. The design for Private Alleys is illustrated in Exhibit 2-17.

2.8 Infrastructure and Utilities

2.8.1 Water Facilities Plan

Potable and irrigation water service for the Project will be made available from the City of Newport Beach. The proposed domestic water system shall include connections to the existing City of Newport Beach facilities located in 16th Street, Ticonderoga Street, and West Coast Highway. A network of new 8-inch and 12-inch diameter water mains shall be constructed to provide water service to the Project Site.

The "Conceptual Water Facilities Plan," included as Exhibit 2-18, illustrates the water facilities planned to serve the Project Site.

2.8.2 Wastewater Facilities Plan

The City of Newport Beach will make available sanitary sewer service to the Project. A system of new 8-inch, 10-inch, and 12-inch diameter sewer mains shall be constructed as part of the Project to collect effluent and direct it to the County Sanitation District of Orange County (CSDOC) trunk sewer upstream of the Bitter Point Pump Station.

The "Conceptual Wastewater Facilities Plan," included as Exhibit 2-19, illustrates the sanitary sewer facilities planned to serve the Project Site.

2.8.3 Drainage Facilities

New drainage facilities shall be constructed consistent with State, federal, and local regulations, to serve the Project Site to include six primary storm drain systems that shall drain Project flows in an environmentally responsible manner to downstream receiving water bodies.

The Conceptual Drainage Plan, included as Exhibit 2-20, illustrates the six storm drain systems planned to serve the Project Site. These storm drains are described below:

- **Storm Drain A:** This storm drain will collect flows from the CP and BP Districts, as well as from Bluff Road and North Bluff Road, and deliver flows from these areas to the existing Caltrans box culvert under the WCH. Project flows will not increase overall flows above existing levels into the existing Caltrans box culvert under the WCH.
- **Storm Drains B and C:** These two storm drains will collect flows from the Residential, BP, and VSR/R Districts, as well as, off-site flows from Newport Beach and Costa Mesa, adjacent to the Southern Arroyo and deliver flows from these areas to a proposed diffuser

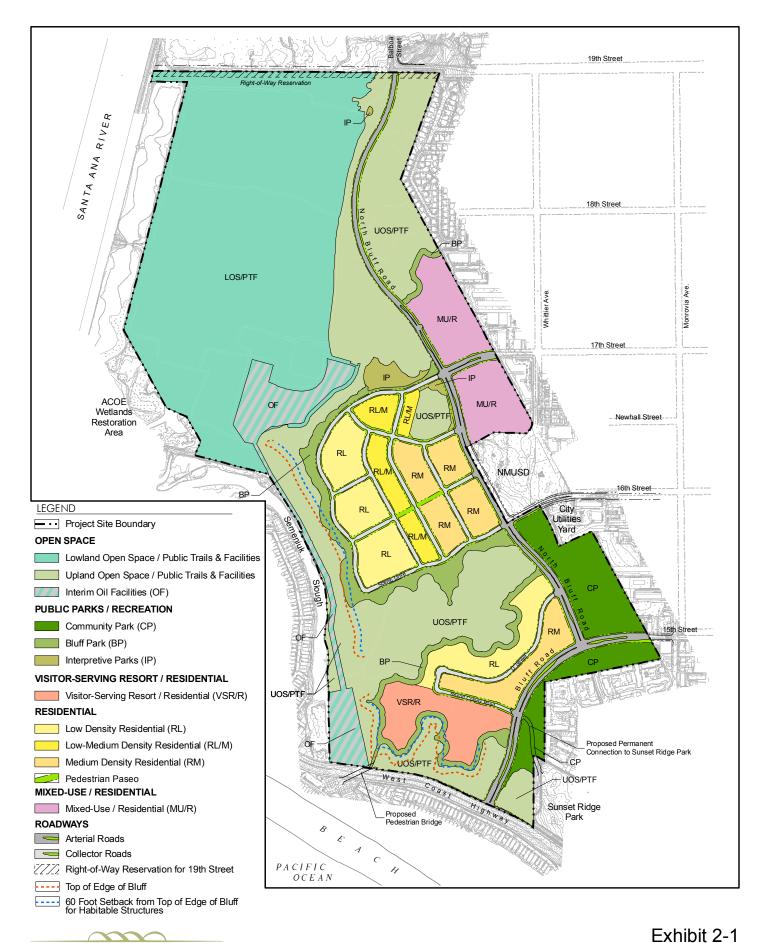
basin located downstream of the Southern Arroyo, adjacent to the Semeniuk Slough after which these flows will be delivered to the Semeniuk Slough.

- Storm Drains D and E: These storm drains will collect flows from the Residential BP, and the majority of the MU/R Districts within the Project Site and deliver storm flows to the LOS/PTF District. Under existing oilfield conditions, a portion of flows picked up by Storm Drain D is tributary to the Southern Arroyo and ultimately Semeniuk Slough. The proposed redirection of this drainage is specifically designed to reduce the flood loading of Semeniuk Slough. An energy diffuser will be provided in the LOS/PTF District to reduce the momentum of the flows delivered by Storm Drains D and E.
- **Storm Drain F**: This storm drain will collect flows from the northernmost areas of the MU/R District, as well as off-site flows from Costa Mesa, and deliver them to the Northern Arroyo. The tributary area to Storm Drain F is designed to match existing runoff conditions in the Northern Arroyo. An energy dissipater will be installed at this storm drain outlet to transition flows from erosive velocities to non-erosive velocities, and to deliver those non-erosive flows to the natural channel within the Northern Arroyo.
- **Storm Drain G**: This storm drain will collect flows from the northernmost portion of the Project Site, as well as flows from Costa Mesa, and deliver them to the LOS/PTF via a culvert and a storm drain located in North Bluff Road, south of 19th Street.

2.8.4 Public Utilities and Services

Public utilities and services shall be provided to the Project Site by the following purveyors:

- Electrical Southern California Edison Company;
- Gas The Gas Company;
- Telephone Pacific Bell; and
- Cable Television/Internet/Telephone Time Warner.





Planned Community Development Plan











Exhibit 2-2

PLANNED COMMUNITY DEVELOPMENT TABLE

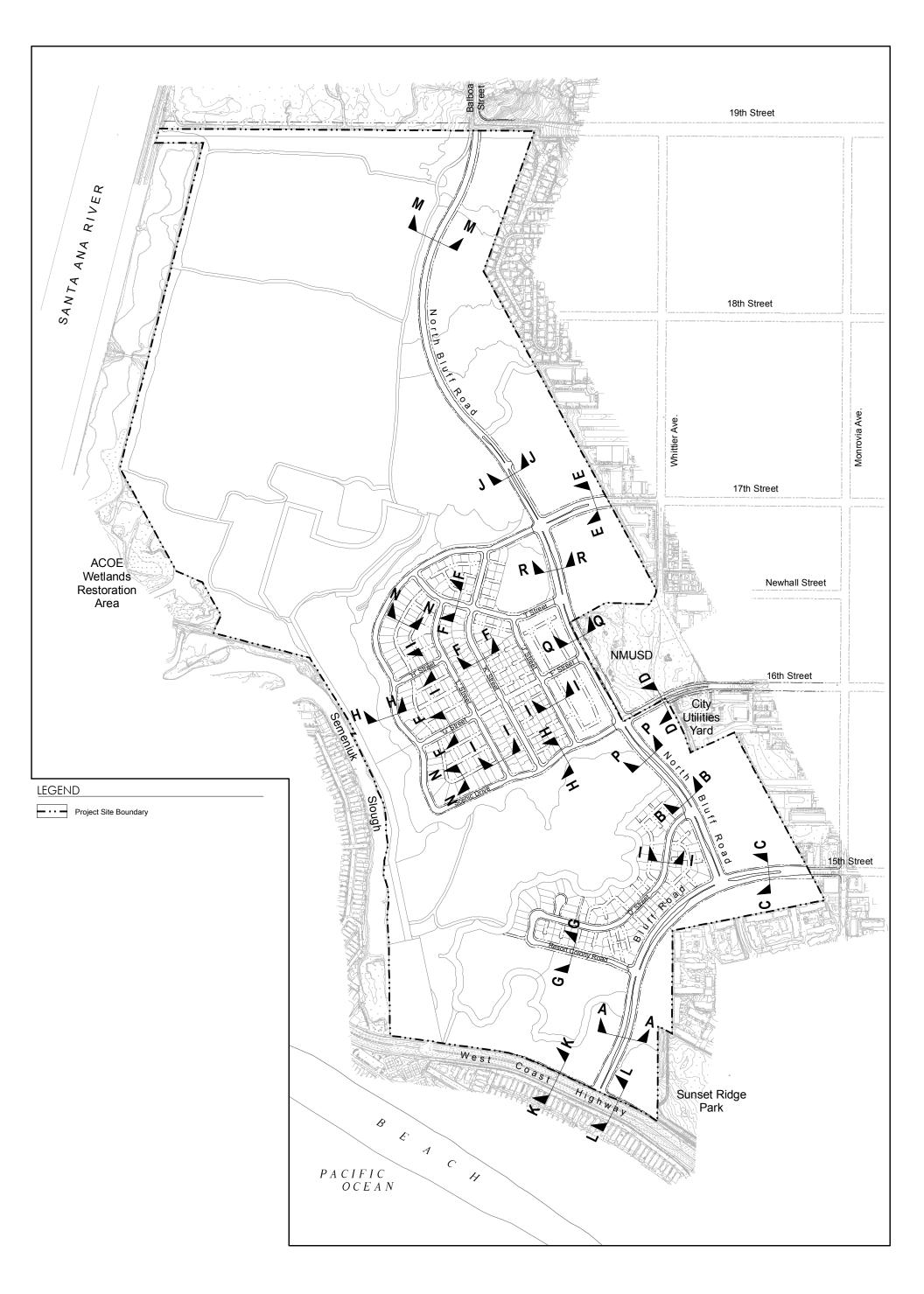
Newport Banning Ranch

LAND USE DISTRICT		Gross Acres ⁽¹⁾	Planned Dwelling Units ⁽²⁾	Maximum Permitted Commercial S.F.	Maximum Permitted Overnight Accommodations
OPEN SP	<u>ACE</u>				
LOS/PTF	Lowland Open Space / Public Trails and Facilities (3)	130.6			
UOS/PTF	Upland Open Space / Public Trails and Facilities (3)	105.2			
OF	Interim Oil Facilities (9)	16.5			
	Subtotal Open Space	252.3			
PUBLIC F	PARKS / RECREATION				
CP	Community Park	26.8			
BP	Bluff Park ⁽⁴⁾	20.9			
IP	Interpretive Parks (4)	3.7			
	Subtotal Public Parks / Recreation	51.4			
VISITOR-	SERVING RESORT / RESIDENTIAL (5)				
VSR/R	Visitor-Serving Resort / Residential	11.3	87		<i>7</i> 5
	Subtotal Visitor-Serving Resort / Residential	11.3	87		<i>75</i>
RESIDEN [®]	TIAL (5)				
RL	Low Density Residential (up to 8 DU/Ac)	26.1	167	0	
RL/M	Low-Medium Density Residential (up to 16 DU/Ac)	11.8	85	0	
RM	Medium Density Residential (up to 24 DU/Ac)	27.3	306	0	
	Subtotal Residential	65.2	558	0	
MIXED-U	SE / RESIDENTIAL (5)	-	-		
MU/R	Mixed-Use / Residential (up to 40 DU/Ac)	20.9	730	75,000	
	Subtotal Mixed-Use / Residential	20.9	730 ⁽⁶⁾	75,000 ⁽⁷⁾	
TOTAL	. PROJECT	401.1	1,375 ⁽⁸⁾	75,000 ⁽⁷⁾	<i>75</i>

Exhibit 2-2 (continued)

PLANNED COMMUNITY DEVELOPMENT TABLE FOOTNOTES Newport Banning Ranch

- (1) Gross acres are measured to the centerlines of all public roads where such roads are shown on the plan. Public roads shown on the plan total approximately 38.3 acres. Refinements to the gross acres within each Land Use District are permitted subject to the provisions set forth in Chapter 4, "Implementation and Administration.
- Planned Dwelling Units may be transferred from one Residential, Visitor-Serving Resort/Residential, or Mixed-Use/Residential Land Use District to another in accordance with the provisions of Chapter 3, "Land Use and Development Regulations," and Chapter 4, "Implementation and Administration," of the NBR-PC, provided the transfer does not result in an increase of more than 15% of the total number of Planned Dwelling Units established for the district in the "Planned Community Development Table," the maximum density established for each residential land use district is not exceeded, the total number of dwelling units within the Mixed-Use/Residential Land Use District does not exceed 730, the total number of dwelling units within the Planned Development does not exceed 1,375, and there are no new traffic impacts associated with the transfer as determined by the City Engineer pursuant to a traffic study prepared by the City.
- The Right-of-Way Reservation for the 19th Street Extension, from the Project Site's easterly boundary to the Santa Ana River, encompasses approximately 3.1 total acres, including approximately 0.6 acres located within the Upland Open Space/Public Trails and Facilities District, and approximately 2.5 acres located within the Lowland Open Space/Public Trails and Facilities District.
- (4) Gross acres for the Bluff Park District and Interpretive Parks District may include fuel management zones, interpretive trails and facilities, and landscape focal points and greens.
- Gross acres for Residential Districts, the Visitor-Serving Resort/Residential District, and the Mixed-Use/Residential District may include fuel management zones, privately owned and maintained parks and recreation facilities, and landscape focal points and greens.
- (6) Within the Mixed-Use/Residential District, the Planned Dwelling Units shall also be the maximum permitted dwelling units.
- ⁽⁷⁾ Up to 2,500 square feet of commercial building area may be transferred from the Mixed-Use/Residential Land Use District to a Residential Land Use District in accordance with the provisions of Chapter 3, "Land Use and Development Regulations," of the NBR-PC, provided the total area of commercial buildings for the Planned Community does not exceed 75,000 square feet.
- (8) A maximum 1,375 dwelling units is permitted within the NBR-PC.
- (9) The Interim Oil Facilities (Open Space Land Use) District includes: 1) the existing oil operations site near West Coast Highway; 2) the new oil consolidation site near the middle of the Lowland; and 3) an oil access road (non-exclusive easement) connecting the two working sites.





GLENN LUKOS ASSOCIATES

1,200

GLENN LUKOS ASSOCIATES

FUSCOE HORIVIN 06 · 14 · 2011

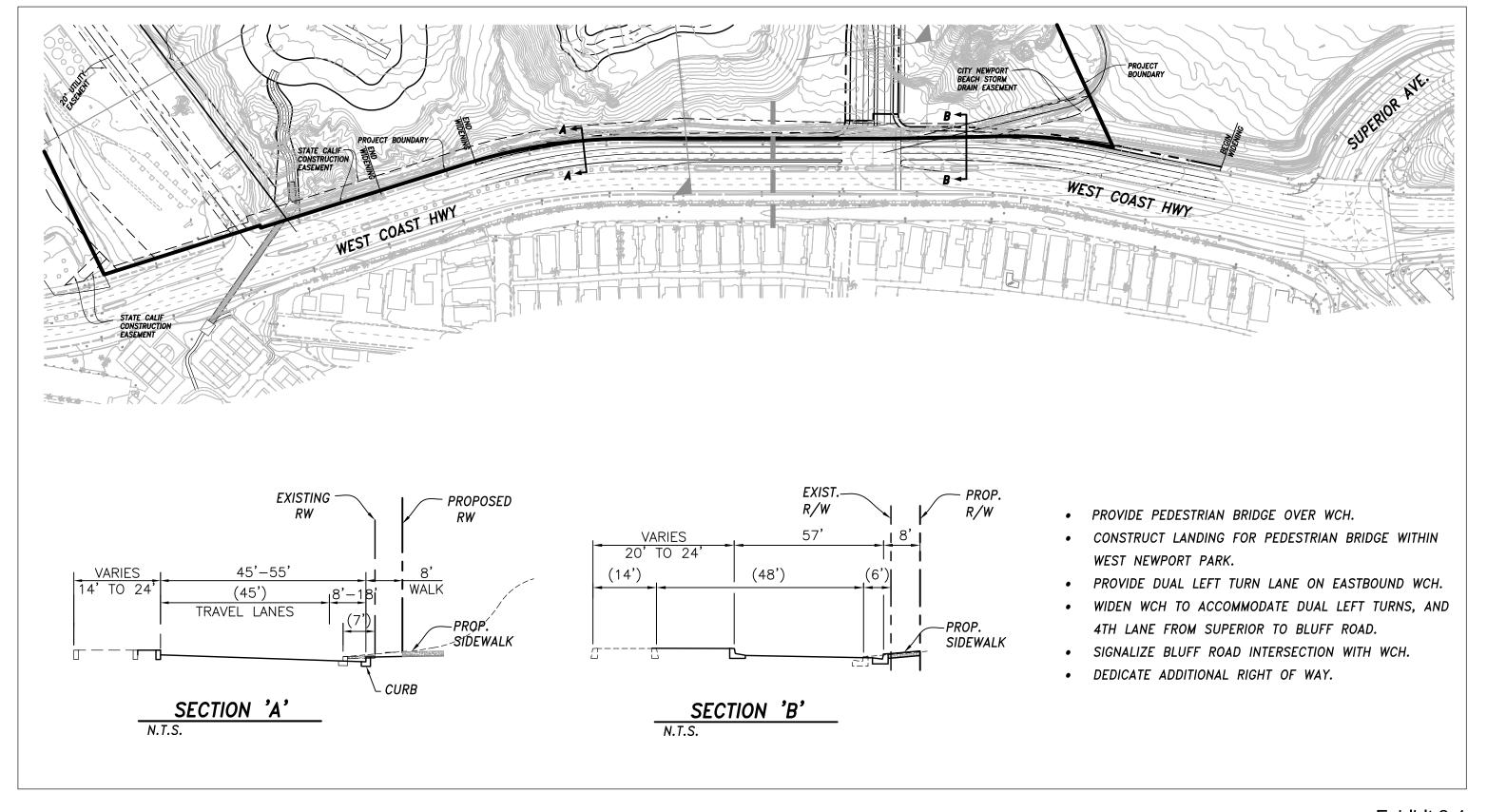
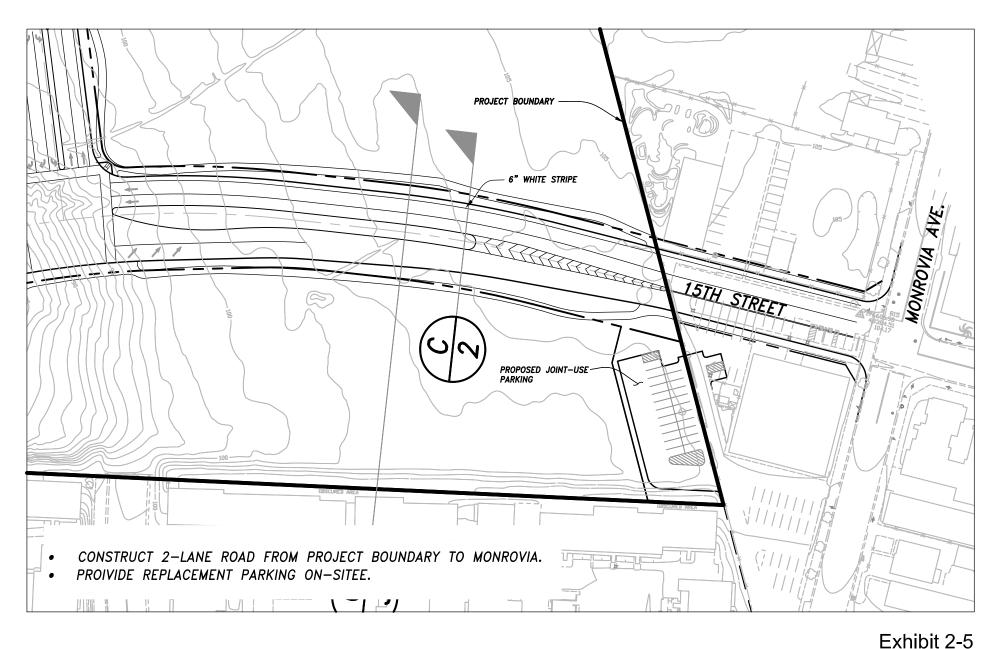




Exhibit 2-4
West Coast Highway - Bluff Road
Entry/Intersection Improvements





15th Street Entry and Off-Site Improvements

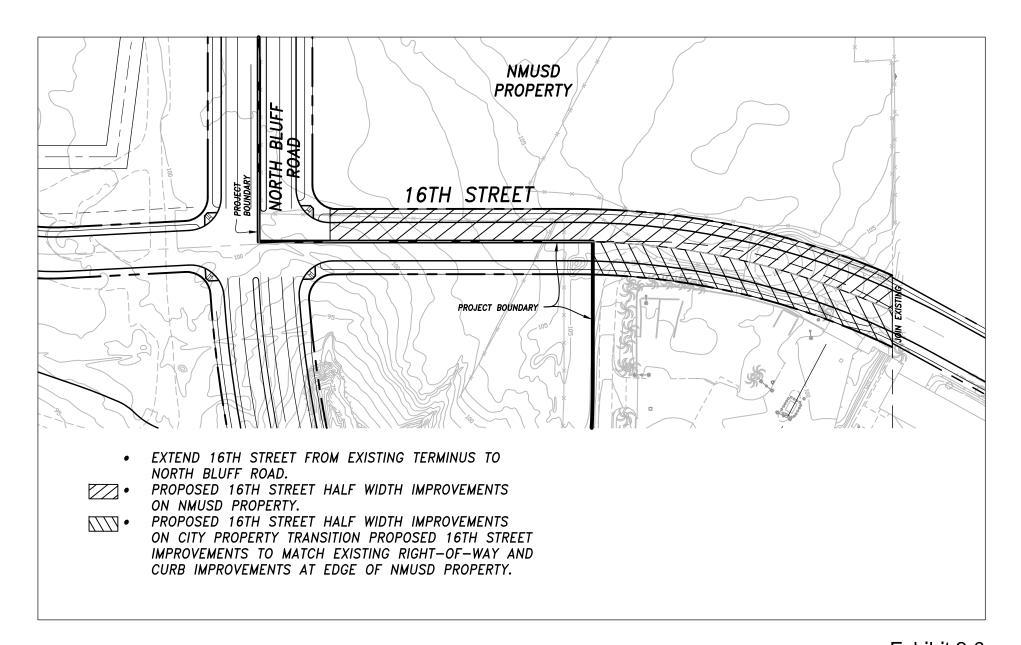




Exhibit 2-6
16th Street Entry and
Off-Site Improvements







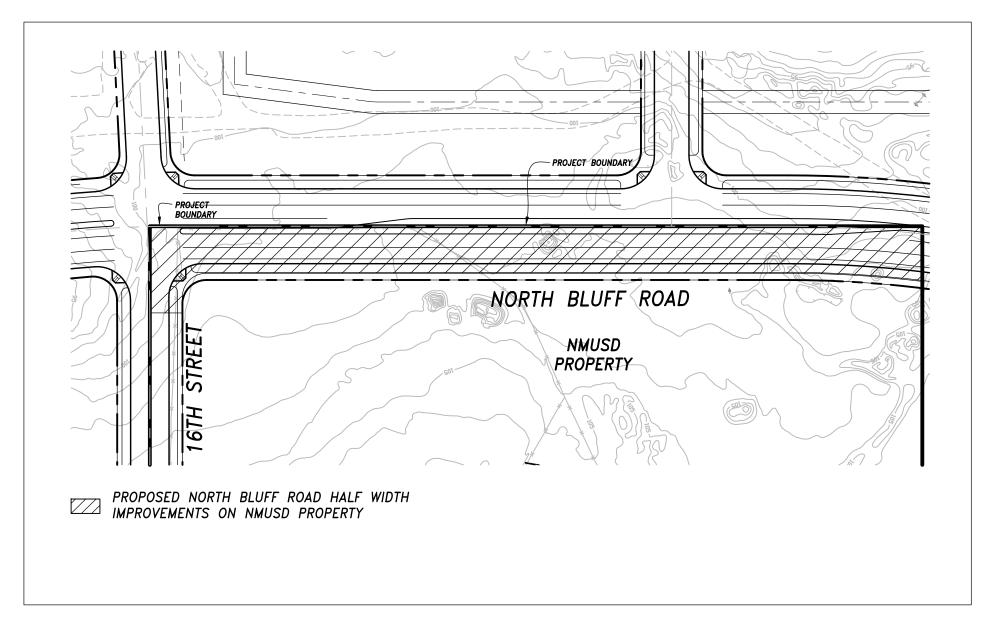




Exhibit 2-7 North Bluff Road Off-Site Improvements







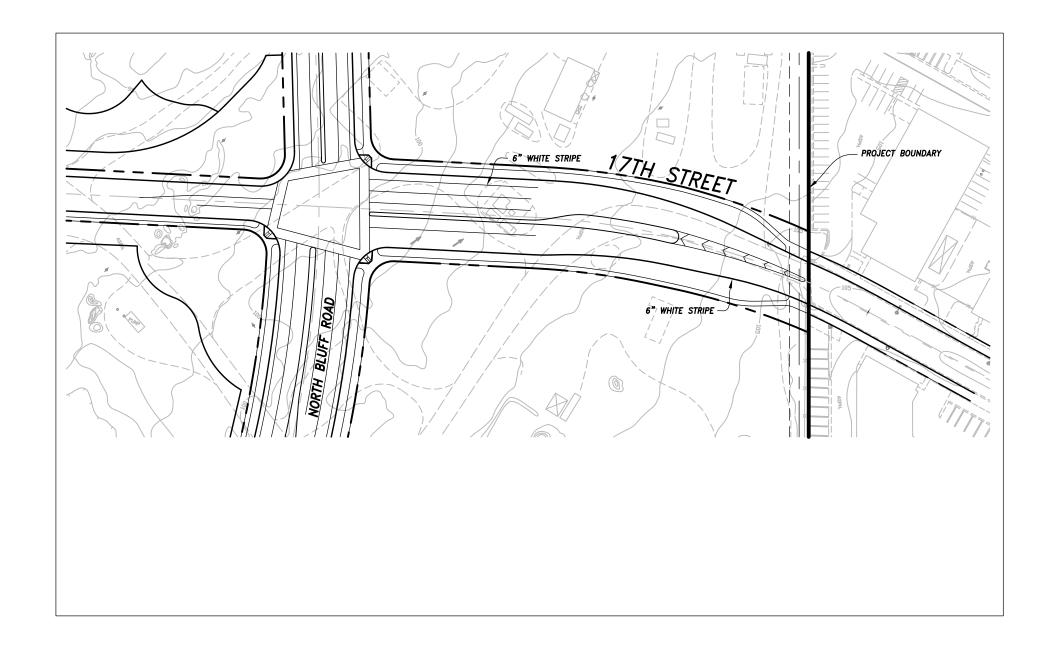
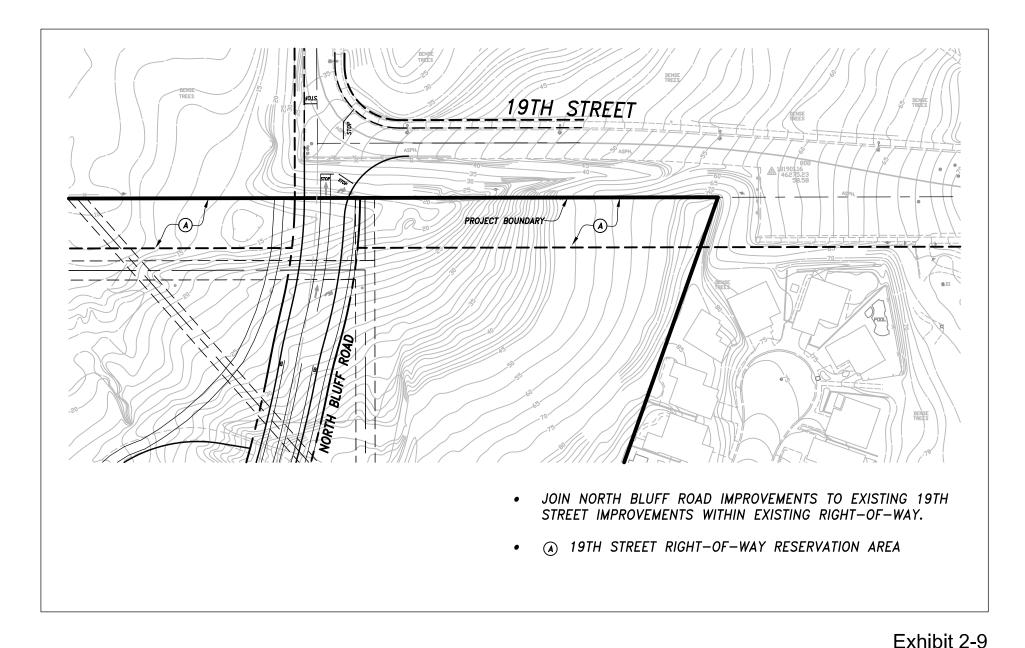


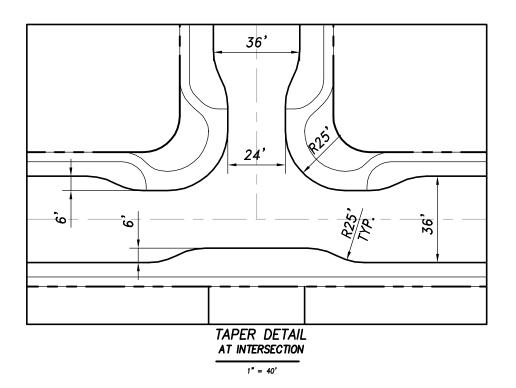


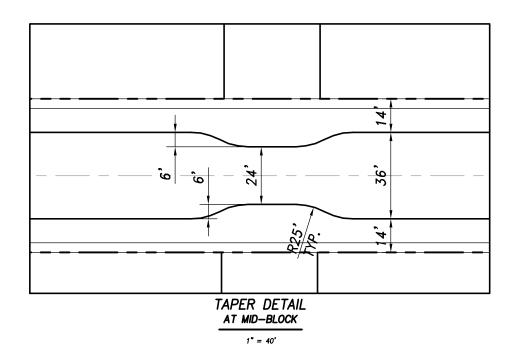
Exhibit 2-8 17th Street Entry Improvements

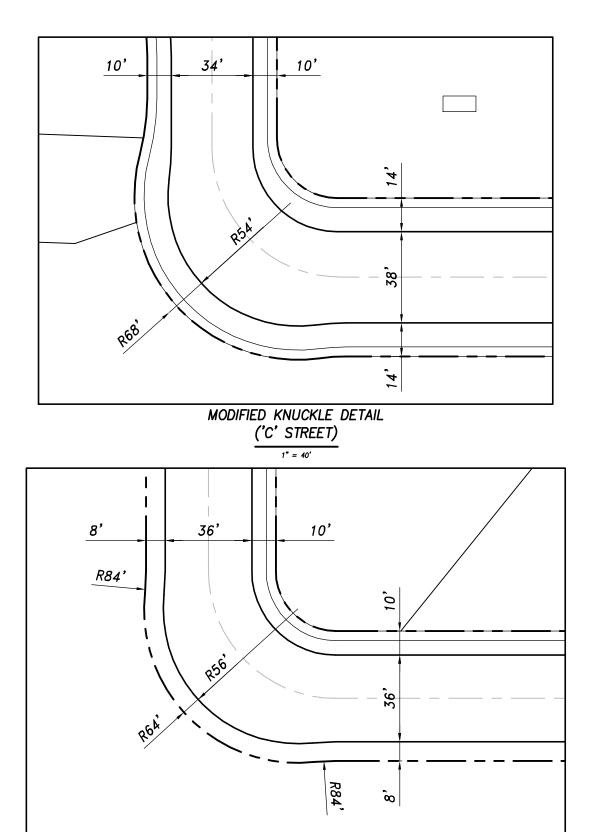




19th Street and North Bluff Road Entry and Off-Site Improvements







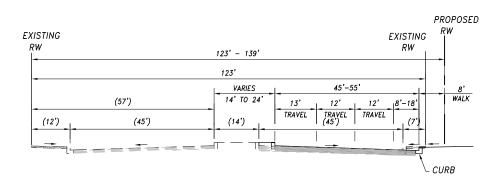
MODIFIED KNUCKLE DETAIL

('E' STREET)

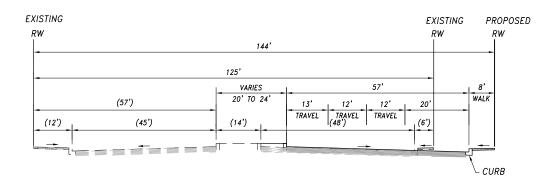
1" = 40"



Exhibit 2-10
Traffic-Calming Design Features



<u>Section K-K</u> West Coast Highway



Section L-L West Coast Highway



Exhibit 2-11
Sections K-K and L-L
West Coast Highway

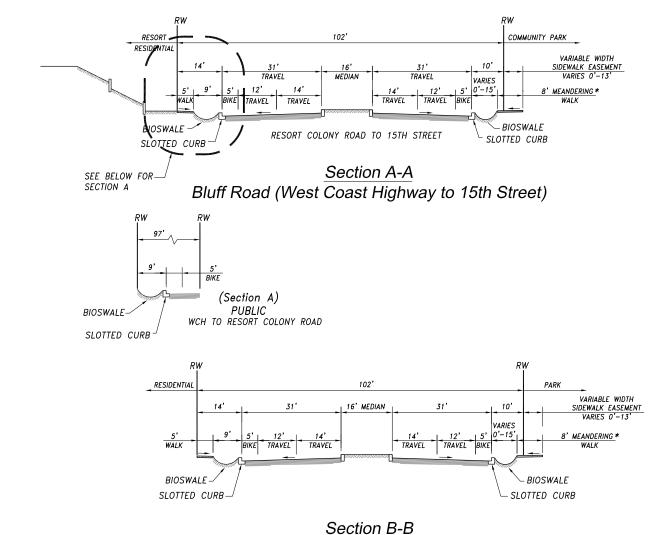




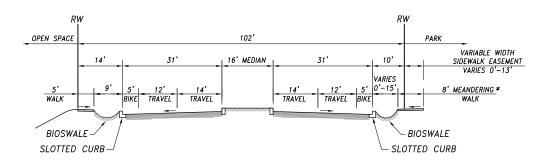








Section B-B
North Bluff Road (15th Street to 16th Street - Adjacent Residential to West)



Section P-P
North Bluff Road (15th Street to 16th Street - Adjacent Open Space to West)

Sections A-A, B-B, and P-P

Bluff Road (West Coast Highway to 15th Street) North Bluff Road (15th Street to 16th Street)

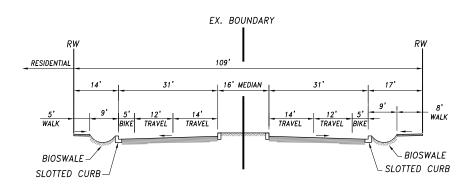




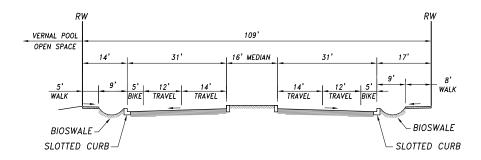








Section Q-Q North Bluff Road (16th Street to 17th Street - Adajcent Residential to West)



Section R-R North Bluff Road (16th Street to 17th Street -Adjacent Interpretive Park/Open Space to West

Sections Q-Q and R-R



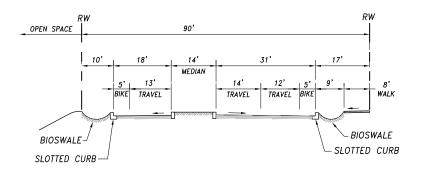
North Bluff Road (16th Street to 17th Street)



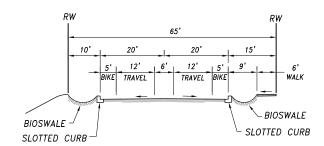








Section J-J
North Bluff Road (17th Street to North Bluff Park North of Urban Colony)



Section M-M
North Bluff Road (North Bluff Park North of Urban Colony to 19th Street)

Sections J-J and M-M



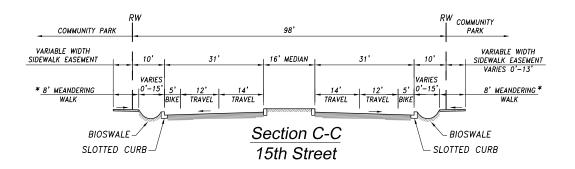
North Bluff Road (17th Street to 19th Street)

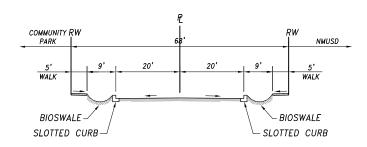




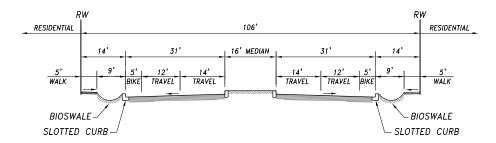








Section D-D 16th Street



Section E-E 17th Street

Sections C-C, D-D, and E-E 15th, 16th, and 17th Streets

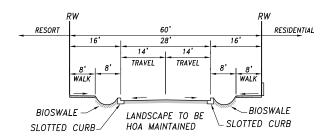




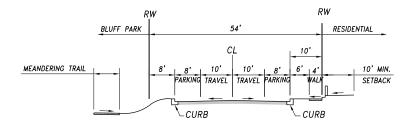








Section G-G Resort Colony Road

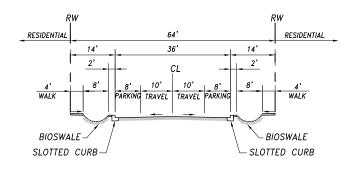


Section H-H Scenic Drive

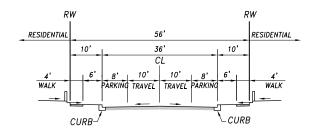
Sections G-G and H-H Resort Colony Road and Scenic Drive



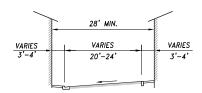




<u>Section F-F</u> Typical Local Road with Bioswales



Section I-I
Typical Local Road



Section N-N
Typical Private Alley

Sections F-F, I-I, and N-N Typical Local Roads and Private Alley









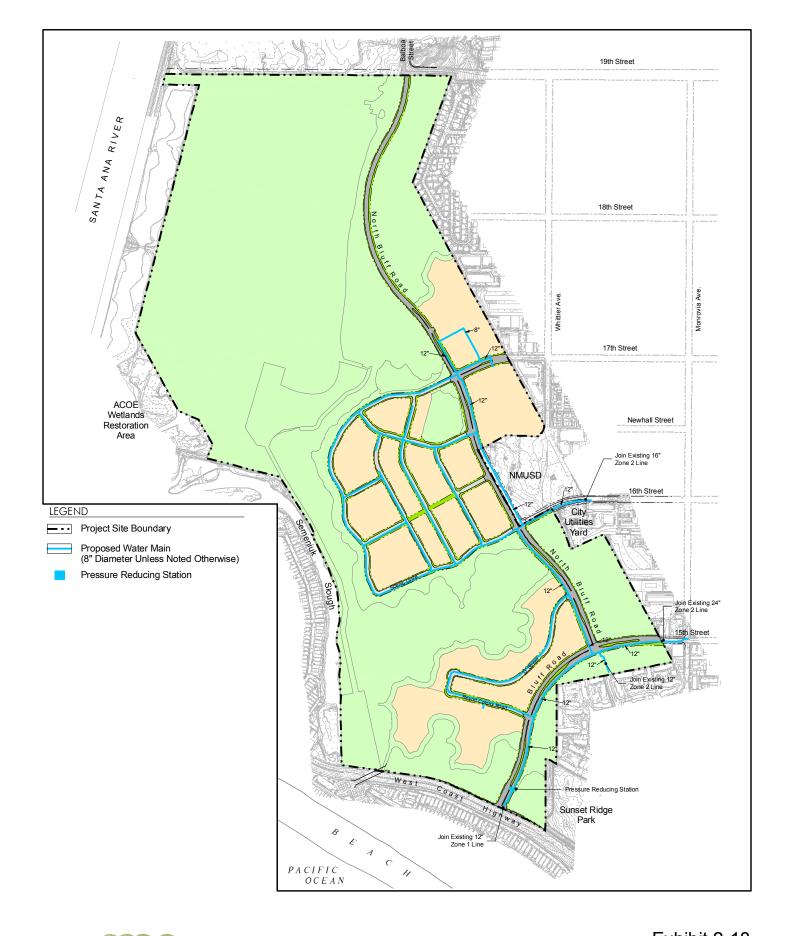


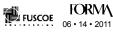


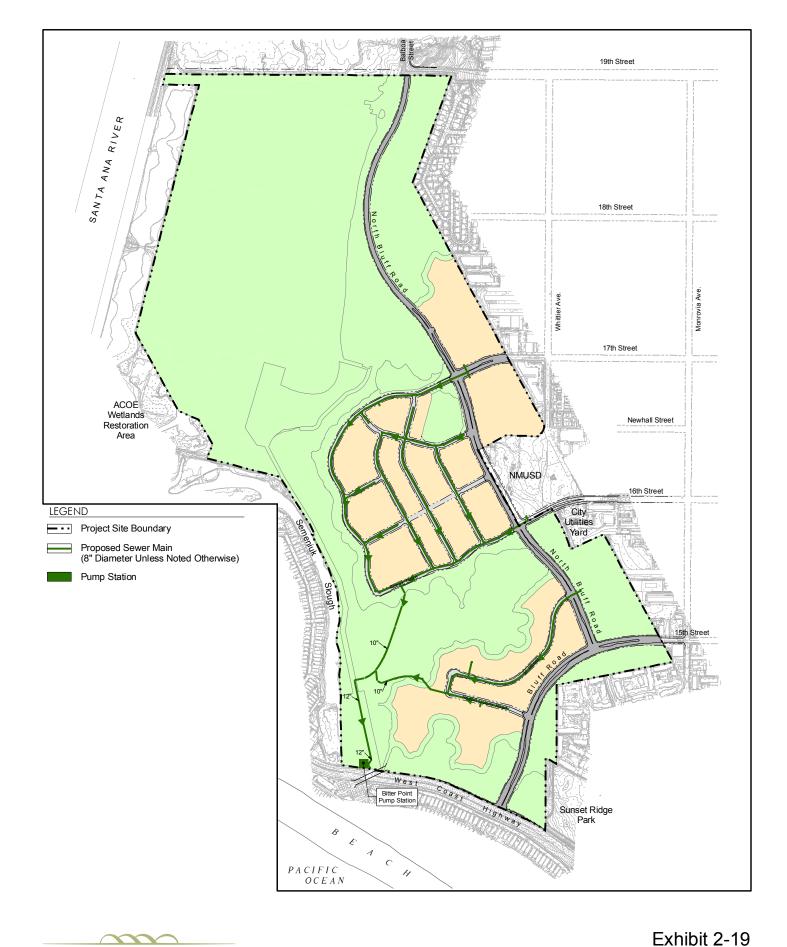
Exhibit 2-18 Conceptual Water Facilities Plan











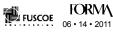


Conceptual Wastewater Facilities Plan

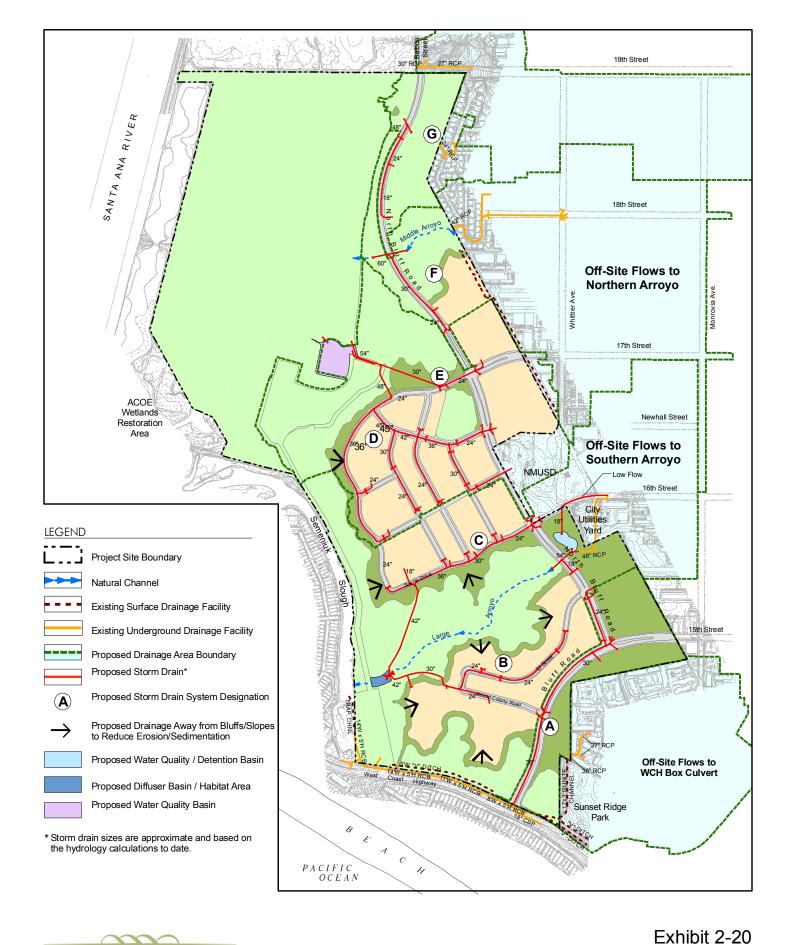














Conceptual Drainage Plan









3.1 Purpose and Intent

The purpose of this chapter is to describe allowable land uses within the NBR-PC and the standards and regulations governing development of allowable land uses. These Land Use and Development Regulations (Regulations) apply to all development within the NBR-PC.

3.2 General Site Development Regulations

The following general site development regulations are applicable to development activities within all land use districts.

3.2.1 Oil Operations

The Project Site has been a continuously operating oil field since 1943. As of the effective date of the NBR-PC, oil operations within the Project Site continue to be conducted by West Newport Oil Company, permitted pursuant to the South Coast Regional Coastal Zone Conservation Commission Claim for Exemption No. E-7-27-73-144, and the City of Newport Beach consistent with Federal, State, and local laws. These oil operations provide valuable energy resources for the State and Country. All abandonment and re-abandonment of oil facilities, site remediation, removal of oil production facilities, and consolidation of oil production facilities within Project Site shall be conducted per the requirements of the appropriate State and local regulatory agencies.

The consolidation of existing oil operations and the continued operation of existing consolidated and new oil operations are permitted within the OF District. Surface oil drilling, production, and related operations shall be permitted only within the OF District and pursuant to the South Coast Regional Coastal Zone Conservation Commission Claim for Exemption No. E-7-27-73-144. Subsurface oil facilities for continued oil production shall be permitted throughout the Project Site. All surface oil production facilities located in areas outside of the OF District in existence after the effective date of the NBR-PC shall be legal non-conforming structures and subject to NBMC Chapter 20.38, "Nonconforming Uses and Structures," and subject solely to the provisions of NBMC Sections 20.38.010 through 20.38.050 of Chapter 20.38.

Continuation of existing and new oil production facilities shall be regulated and inspected by the California Division of Oil, Gas, and Geothermal Resources (DOGGR) and other appropriate State and local regulatory agencies.

3.2.2 Grading Plans

All grading plans within the Project Site shall comply with the following:

- 1. Grading plans shall be accompanied by geological and soils engineering reports, and shall incorporate information as required by the City.
- 2. Grading plans shall indicate all areas of grading, including remedial grading, and shall extend to the limits outside of the boundaries of an immediate area of development as required by the City. Grading shall be permitted within all Land Use Districts and outside of an area of immediate development, as approved by the City, for the grading of public roads, highways, park facilities, infrastructure, and other development-related improvements. Remedial grading for development shall be permitted in all Land Use Districts outside of an immediate development area, as approved by the City, to adequately address geotechnical or soils conditions. Grading plans shall provide for temporary erosion control on all graded sites scheduled to remain unimproved for more than 30 days.

3.2.3 Public Infrastructure and Utilities

Construction of public infrastructure and utilities shall conform to the following:

- Utilities shall be placed below grade and will be principally located in road rights-of-ways, alley-ways, or, where necessary and feasible, in recreation and open space areas not primarily required for habitat restoration and/or preservation.
- 2. Any new utilities to serve development within the Project Site and located within open space areas, except within the Interim Oil Facilities District, shall be placed below grade unless waived by the Director.

3.2.4 Provision of Telecommunication Infrastructure

Fiber-optic services (FiOS), wireless technology, or similar high-speed communication technology available at the time of development construction shall be installed to all homes to provide opportunities for telecommuting and other advanced communications activities.

3.2.5 Solid Waste and Recyclable Materials Storage

All development projects within the Project Site shall comply with NBMC Section 20.30.120, "Solid Waste and Recyclable Materials Storage." This section provides standards for the provision of solid waste (refuse) and recyclable material storage areas in compliance with State Law and NBMC Chapter 6.04, "Garbage, Refuse and Cuttings."

LAND USE AND DEVELOPMENT REGULATIONS

3.2.6 Model Home Complexes

Model home complexes containing temporary real estate offices used solely for the first sale of homes within the boundaries of an approved subdivision are permitted within any Residential District, the Visitor-Serving Resort/Residential District, and the Mixed-Use/Residential District. Model home complexes are permitted in accordance with the provisions of Section 4.11, "Model Home Complex Permit," of the NBR-PC.

3.2.7 Fence, Hedge, Wall, and Retaining Wall Regulations

All fences, hedges, walls, and retaining walls shall comply with the provisions of NBMC Section 20.30.040, "Fences, Hedges, Walls, and Retaining Walls," except as provided for more specifically/differently below:

- 1. Any freestanding perimeter walls and view fencing approved as part of Site Development Review for a project shall be constructed by the developer.
- 2. Community theme walls and fences shall be designed and constructed in locations consistent with the approved Master Development Plan required pursuant to Section 4.4, "Master Development Plan," of the NBR-PC. Decorative community theme walls and fences shall not exceed six feet in height from highest adjacent finished grade exclusive of retaining walls which may have a maximum height of two feet. Maximum wall heights may be exceeded as required for sound attenuation purposes pursuant to the recommendations of an acoustical study or the EIR Mitigation Monitoring Program as approved by the City. Community theme walls shall be constructed of either masonry or other permanent, durable, low maintenance material. In a slope condition these walls and fences may be offset from the retaining wall and shall not exceed six feet in height from the adjacent retaining wall. Thematic fencing materials shall be approved by the City as part of Development Plan Review.
- 3. View fencing in locations approved as part of a Master Development Plan or Site Development Review shall not exceed six feet in height from the highest adjacent finished grade exclusive of retaining walls which may have a maximum height of two feet. View fencing shall be constructed of tubular metal, tempered glass, or other durable and reasonably transparent material as approved by the City.
- 4. Front yard fences, hedges and walls are limited to a maximum height of 42 inches along the property line, fences, hedges and walls up to a maximum height of 6 feet may be constructed 5 feet or a greater distance from the front yard property line to enclose or provide privacy to a private patio, courtyard, spa, swimming pool, or similar hardscape/landscape area at the front of the residence. Such walls may incorporate decorative gates, pilasters, or other features. The provisions of NBMC Section 20.30.040(C), "Exceptions to Maximum Height", including Subsection (2), "Decorative Fence/Wall Details and Lights," shall apply to fences and walls in this area.

3.3 Landscape Regulations

- 1. The Project shall comply with the provisions of NBMC Chapter 14.17, "Water-efficient Landscaping."
- 2. The Project shall comply with NBMC Chapter 14.16, "Water Conservation and Supply Level Regulations."
- 3. The Project shall comply with NBMC Chapter 20.36, "Landscaping Standards," except as may otherwise be approved as part of the Master Landscape Plan identified in (4) below:
- 4. All landscaping within the Project Site shall comply with the Master Landscape Plan approved as part of the Master Development Plan, pursuant to the provisions of Section 4.4, "Master Development Plan," of the NBR-PC, exclusive of private homeowner lots/ yards and turf playfields and other recreation areas in the CP District.
- 5. All plant materials that are planted in the Open Space Districts shall be California natives.
- 6. The design and improvement of all developer-installed public parks, including landscape and irrigation plans, within the Project Site shall be subject to approval of a Site Development Review by the City pursuant to Section 4.5 of the NBR-PC, "Site Development Review."
- 7. Plant material within the Project Site shall be installed in accordance with the Plant Palette included in a Master Landscape Plan approved as part of the Master Development Plan pursuant to the provisions of Section 4.4, "Master Development Plan," of the NBR-PC.
- 8. "Smart Controller" irrigation systems shall be installed in all public and common area landscaping.
- 9. Landscape within public and common areas shall be designed on a "hydrozone" basis to group plants according to their water and sun exposure requirements.

3.4 Lighting Regulations

The following regulations apply to exterior lighting within the Project Site.

3.4.1 General Lighting Standards and Regulations

- 1. The provisions of NBMC Section 20.30.070, "Outdoor Lighting," shall apply to all land uses of the NBR-PC.
- 2. Street lighting within the Project Site is permitted only at roadway intersections for public safety purposes. Street lighting shall be provided in accordance with the requirements of the Newport Beach Design Criteria, Standard Special Provisions and Standard Drawings for Public Works Construction Standards Manual.
- 3. LED and/or low-energy fixtures shall be required for lighting used in HOA-maintained common areas and in public street rights-of-way where street lights are permitted.
- 4. Lighting within the LOS/PTF, UOS/PTF Land Use Districts shall be prohibited.
- Outdoor lighting within the IP Land Use District shall be prohibited with the exception of
 public trails which may be lighted with bollard lights or similar low-height, "dark-sky" lights,
 provided light fixtures are shielded to confine light rays to the trail.

3.4.2 Outdoor Lighting Standards for Commercial Uses in the MU/R and VSR/R Land Use Districts

- 1. The average maintained lighting levels for commercial uses in the MU/R and VSR/R Land Use Districts shall not exceed the following standards:
 - a. 5-foot candles for parking lot and other areas, however, the maximum lighting level to average lighting level ratio shall not exceed 2.5 to 1.
 - b. 10-foot candles along fronts of buildings and along main drive aisles within parking lots. The maximum lighting level to average lighting level ratio shall not exceed 2.5 to 1.
 - c. 20-foot candles for high security areas such as automated teller machines (ATMs), but not including parking lots. The maximum to average ratio shall not exceed 1.5 to 1 for canopy lighting, and 2.5 to 1 for pole- or building-mounted lighting. Lighting levels shall be reduced to a maximum of 10-foot candles after the close of business.

- 2. Light fixtures under any canopy shall be recessed into the canopy ceiling with a flat lens to prevent glare. The bottom of the fixtures may protrude a maximum of two (2) inches from the ceiling. The portions of the canopy not included in the sign area shall not be illuminated.
- Lighting levels shall not exceed 0.5 foot-candles where commercial uses abut residential uses.

3.4.3 Outdoor Lighting Standards for Multi-Family Residential Uses

- 1. The average maintained lighting levels for outdoor lighting affixed to multi-family residential buildings shall not exceed the following:
 - a. 0.5-foot candles at property line boundaries.
 - b. 10-foot candles at buildings, parking lots or other areas. The maximum to average ratio shall not exceed 2.5 to 1.

3.4.4 Outdoor Lighting Standards for Sports and Athletic Playing Fields in the CP Land Use District

1. Light standards for athletic playing fields in the CP Land Use District shall be designed with light control visors to control spill and glare and to direct light downward onto the playing field. Light standards used for lighting playing fields shall be either Musco Lighting™, "Light Structure Green" standards, or another comparable light standard of similar design that reduces light spillage.

3.4.5 Outdoor "Dark Sky" Lighting Standards

- 1. The following outdoor lighting standards shall apply to all land uses within the BP Land Use District and to any land use located within 100 feet of LOS/PTF and UOS/PTF Land Use Districts, with the exception of those land uses within the CP Land Use District.
- 2. Full cutoff luminaires, as defined by the Illuminating Engineering Society of North America (IESNA), shall be used in developed areas to minimize the amount of light emitted upward directly from the luminaire.
- 3. Exterior lighting shall be shielded and directed to confine light to the intended area to be lit.
- 4. No skyward casting lighting shall be allowed.
- 5. Pathways and trails within the BP Land Use District shall be lit with low level bollard or other similar lighting which shall not exceed three feet in height.

LAND USE AND DEVELOPMENT REGULATIONS

- 6. Lighting levels shall be restricted to the lowest intensity necessary for security and safety purposes while still adhering to the recommended levels of the IESNA
- 7. Landscaping shall be used as filtering devices to soften the impact of direct exterior, reflected exterior, and building interior lighting.
- 8. Design of outdoor lighting fixtures shall be approved as part of Site Development Review.

3.4.6 Design Standards for HOA-Maintained Outdoor Lighting in all Land Use Districts

- Common area outdoor lighting standards shall be metallic, unbreakable plastic, recessed or otherwise designed to reduce the problems associated with damage and replacement of fixtures. Fixtures shall be vandal-resistant.
- 2. Exterior lighting illuminating public areas, community facilities, and recreation areas shall be designed to include a hierarchy of fixtures of varying heights, illumination levels, and design features.
- 3. Parking lots, pedestrian walkways, and building entrances shall be adequately lit for security purposes.
- 4. Alley lighting fixtures shall be equipped with sensors for automatic nighttime lighting. Style and specifications for alley lighting shall be approved as part of Site Development Review.
- 5. Where Project and Neighborhood entry monuments are lit they shall be illuminated by concealed, ground-mounted, up-lights. Lighting of Project and Neighborhood entry monuments shall be permitted only along arterial and collector roadways, key intersections, and neighborhood entries.
- 6. All electrical meter pedestals and light control equipment in HOA-maintained common areas or public rights-of-ways shall be located with minimum public visibility and/or screened with plants or allowed by jurisdictional agencies.

3.4.7 Exemptions from Outdoor Lighting Requirements

- 1. Lighting required by the Building Code.
- 2. Construction and emergency lighting used by construction workers, police, firefighting, or medical personnel, provided the lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency requiring the lighting.
- 3. Lighting for oil production operations within the OF Land Use District.

3.5 Community Master Sign Program

Prior to issuance of the first Certificate of Occupancy, including the first model home complex, a Master Sign Program for the community shall be submitted by the developer for approval by the Planning Commission to address community entries, residential project entries, residential neighborhood identification signs, public facility identification signs, way-finding signs, and any other signs identified as necessary by the Planning Commission for the successful signage of the Project. The Director may require that an additional sign program be approved by the Planning Commission for a specific portion of the Project as part of a Site Development Review.

3.5.1 Community Master Sign Program Contents

The Community Master Sign Program shall address, at a minimum, the following:

- 1. Permitted sign types.
- 2. Prohibited signs.
- 3. The hierarchy of signage.
- 4. Definition of types of signs.
- 5. Locations and dimensions (size and height) for signs included in the Community Master Sign Program.
- 6. Method of sign illumination.
- 7. Provisions for size, location, and duration of display of temporary signs.
- 8. Permitted sign styles, construction materials, colors, and lettering styles.
- 9. The review and permit procedure for individual signs included in the Community Master Sign Program.
- 10. Procedures for modifying or amending the Community Master Sign Program.

3.5.2 Signs not included in the Community Master Sign Program

All signs not included as part of the Community Master Sign Program shall comply with NBMC Section 20.42, "Sign Standards."

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3.6 Green and Sustainable Regulations

All initial new development permitted pursuant to the NBR-PC shall comply with the guidelines contained in the "Newport Banning Ranch Green and Sustainable Program," included as Appendix A of the NBR-PC.

3.7 Parking Regulations

The following regulations shall govern the requirements for off-street parking of motor vehicles within the Project. Except as otherwise specified herein, off-street parking within the Project Site shall be provided in accordance with NBMC Chapter 20.40, "Off-Street Parking."

3.7.1 Preferential Parking for Carpools and Rideshare

Preferential parking spaces, in a number and location as determined by the Planning Commission during Site Development Review, shall be designated for carpools, rideshare, Zipcar®, and/or other vehicle-sharing services for commercial and visitor-serving resort uses within the Mixed-Use/Residential District and the Visitor-Serving Resort/ Residential District.

3.8 Fire and Life Safety Requirements

3.8.1 Requirement for Fire and Life Safety Program

The Developer shall submit a comprehensive Fire and Life Safety Program for the Project for approval by the City as part of a Master Development Plan for the entire Project Site as required in Chapter 4, "Implementation," of the NBR-PC. At a minimum, the approved Fire and Life Safety Program shall address all applicable State and City Fire and Building Codes, and the following City Fire Department Guidelines:

- Guideline G.01 Hazard Reduction Zones.
- 2. Guideline G.02 Fuel Modification Plans and Maintenance Standards.
- 3. Guideline G.03 Construction Requirements for Special Fire Protection Areas.

The Fire and Life Safety Program shall identify any Urban Wildfire Interface Areas within and adjacent to the Project Site and provide a list of plants that are prohibited in Urban Wildland Interface Areas and a list of Fire Resistive plants that are permitted in Urban Wildland Interface Areas. The Fire and Life Safety Program shall be approved pursuant to the provisions of Chapter 4.4, "Master Development Plan" of the NBR-PC.

3.8.2 Alternate Materials and Methods

The Fire and Life Safety Program for the Project may include Alternate Materials and Methods, as approved by the City's Fire Department pursuant to Newport Beach Fire Department Guideline H.01.

3.8.3 Fire Restrictions in CC&Rs

Project CC&Rs shall contain the fire protection regulations approved by the City, and all property owners shall be subject to the rules related to fire protection features as established in Project CC&Rs.

3.8.4 Use of Fire and Life Safety Program

The Fire and Life Safety Program approved for the Project shall be made available by the Developer to project builders, architects, landscape architects, HOAs, and property owners and tenants within the Project as part of real estate sale-closing documents and leases.

3.9 Allowable Land Uses

3.9.1 Purpose and Intent

This section establishes the allowable land uses within all Land Use Districts identified on Exhibit 2-1, "Planned Community Development Plan," and Exhibit 2-2, "Planned Community Development Table."

3.9.2 Permitted Uses

Uses listed as "Permitted Uses" are allowed subject to compliance with all applicable provisions of the NBR-PC, issuance of a permit subsequent to approval of a Site Development Review, Zoning Clearance, or any other permit required as required per Chapter 4, "Implementation," of the NBR-PC, and/or any building permit or other permit required by the NBMC. These are indicated as "P" uses in Exhibit 3-1, "Allowable Uses."

3.9.3 Conditionally Permitted Uses

Uses allowed subject to the approval of a Conditional Use Permit (CUP) or Minor Use Permit (MUP) are those allowed subject to compliance with the provisions of Section 4.9, "Use Permits," of the NBR-PC and any building permit or other permit required by the NBR-PC and NBMC. These are indicated as either "CUP" or "MUP" uses in Exhibit 3-1, "Allowable Uses."

3.9.4 Special Event Uses

Uses listed as "Special Event Uses" in NBMC Chapter 11.03, "Special Events," including but not limited to fairs, community picnics, trash clean-ups, grand openings, and other similar events, are allowed within all Land Use Districts of the NBR-PC subject to the provisions of NBMC Chapter 11.03.

3.9.5 Limited Duration Uses

"Limited Duration Uses" as listed in NBMC Section 20.52.040 and the uses listed below are permitted within any Land Use District subject to issuance of a Limited Term Permit, pursuant to the provisions of Section 4.10, "Limited Term Permits," of the NBR-PC, and issuance of grading permits, building permits, and any other permits required by the NBR-PC and NBMC:

- 1. Archaeological and paleontological site studies.
- 2. Temporary infrastructure facilities necessary for the development of adjacent areas (e.g., roads, utility lines, water reservoirs, flood control facilities, utility access roads, erosion control devices and basins, etc.).
- 3. Temporary borrow, stockpile, and/or disposal sites for purposes of construction, which will be removed at the completion of construction.
- 4. Temporary interpretive or environmental protection facilities associated with implementation of the Habitat Restoration Program, or with other complementary programs as approved by the entity responsible for the management of the Upland and Lowland Open Space Areas.
- 5. The temporary storage of maintenance and repair equipment and materials associated with land development and construction of the Project, and the storage, staging, remediation, crushing, and recycling of materials associated with site remediation and infrastructure construction.
- 6. Temporary facilities for the growing of native plant materials related to the habitat restoration of open space areas and facilities for the storing of equipment, building materials, and/or vehicles related to open space restoration activities.

3.9.6 Uses Not Listed

Land uses not listed in Section 3.9.8, "Allowable Uses," of the NBR-PC are not allowed, except as provided in Section 3.9.4, "Special Event Uses," Section 3.9.5, "Limited Duration Uses," and Section 4.3.1 "Interpretations," of the NBR-PC.

3.9.7 Legal Non-Conforming Uses

Any use within the Project Site lawfully existing at the time of the effective date of the NBR-PC including, without limitation, surface and subsurface oil and natural gas production operations, maintenance and operation of existing easements and pipelines, surface leases for storage yards, and other oil-related buildings, structures, and maintenance areas shall be considered legal non-conforming uses and may be continued, notwithstanding any omission of a particular such use in Table 3-1, "Allowable Uses." Legal non-conforming uses are not permitted to be expanded.

LAND USE AND DEVELOPMENT REGULATIONS

3.9.8 Allowable Uses

Exhibit 3-1, "Allowable Uses," establishes the permitted and conditionally permitted uses of the NBR-PC for:

Open Space Districts:

- LOS/PTF Lowland Open Space/Public Trails and Facilities;
- UOS/PTF Upland Open Space/Public Trails and Facilities; and
- OF Interim Oil Facilities.

Public Parks/Recreation Districts:

- CP Community Park;
- BP Bluff Park; and
- IP Interpretive Parks.

Visitor-Serving Resort/Residential District:

■ VSR/R –Visitor-Serving Resort/Residential.

Residential Districts:

- RL Low Density Residential;
- RL/M Low-Medium Density Residential; and
- RM Medium Density Residential.

Mixed-Use/Residential District:

■ MU/R – Mixed-Use/Residential.

EXHIBIT 3-1

ALLOWABLE USES Newport Banning Ranch

LEGEND: P Permitted Use CUP	Condit	ional	Use Pe	ermit			Not	Permit	ted (em	pty ce	ell)
MUP	Minor	Use P	ermit								
		LAND USE DISTRICT									
	ОР	OPEN SPACE		_	PUBLIC PARKS/ RECREATION			RESIDENTIAL			
LAND USE TYPE/FACILITY	LOS/PTF	UOS/PTF	OF	CP (1)	ВР	a	RL	RL/M	RM	P CUP CUP P MUP CUP CUP CUP P MUP CUP CUP CUP CUP CUP P MUP P MUP P MUP P CUP CUP P MUP P CUP	VSR/R
Accessory structures and uses				Р	Р	Р	Р	Р	Р	Р	Р
Accessory Dwelling Units per NBMC Section 20.48.200							MUP	MUP	MUP		
Alcoholic beverages, sale not for consumption on the premises								CUP ⁽²⁾	CUP ⁽²⁾	CUP	CUP
Alcohol sales, service and consumption										CUP	CUP
Amphitheaters – small				MUP	MUP	MUP					MUP
Arboretums and horticultural gardens				Р	Р	Р				Р	Р
Arcades, game or movie										MUP	
Artists' studios / galleries										Р	Р
ATM										Р	Р
Bed and breakfast inns										CUP	CUP
Bicycle rentals					Р	Р				Р	Р
Boat and other marine sales/rental/leasing/ minor repair of, incidental to the sale of boat										MUP	
Bars and nightclubs										CUP	CUP
Breweries, micro										CUP	CUP
Care Uses:											
Adult day care (6 or fewer persons, per NBMC 20.48.070)							Р	Р	Р	Р	
Adult day care (7 or more persons, per NBMC 20.48.070)										MUP	
Child day care small 8 or fewer (per NBMC (20.48.070)							Р	Р	Р	Р	
Child day care large 9-14 (per NBMC 20.48.070)										MUP	
Residential care facilities licensed 6 fewer (per NBMC 20.48.170)							Р	Р	Р	Р	
Residential care facilities 6 or fewer unlicensed (per NBMC 20.48.170)							CUP	CUP	CUP	CUP	
Residential care facilities 7 or more (per NBMC 20.48.170)										CUP	
Caretaker residence							Р	Р	Р	Р	Р
Colleges, universities (including Satellite learning facility)										MUP	
Commercial Personal Services										Р	Р
Commercial Convenience Retail (per NBR-PC Section 2.6 and 3.14.2.2								P ⁽²⁾	P ⁽²⁾		
Community centers, public or HOA/private				Р	Р	Р	Р	Р	Р	Р	Р
Day Care – General										MUP	
Day spas and medical spas										MUP	Р

LAND USE AND DEVELOPMENT REGULATIONS

LEGEND: P Permitted Use	CUP	Condit	ional (Use Pe	rmit			Not	Permit	ted (en	npty ce	ell)
М	UP	Minor	Use Po	ermit								
					L	AND	USE D	ISTRIC	СТ			
		ОР	EN SP.	ACE		LIC PA		RE	SIDEN	ΓIAL		
LAND USE TYPE/FACILITY		LOS/PTF	UOS/PTF	OF	(c) d O	ВР	А	RL	RL/M	RM	MU/R	VSR/R
Eating and drinking establishments sit down dining, serving alcohol, bars, and lounges											CUP	CUP
Eating and drinking establishments, sit down dining no alcohoservice	I								P ⁽¹⁾	P ⁽¹⁾	Р	Р
Financial institutions and related services									P ⁽¹⁾	P ⁽¹⁾	Р	
Greenhouses, commercial										'	P	
Habitat restoration, creation, and protection activities		Р	Р	Р	Р	Р	Р	Р	Р	Р	P	Р
Health/fitness centers and facilities small and large			<u> </u>	<u> </u>	-	<u> </u>				<u> </u>	MUP	P
Historical monuments and cultural heritage sites		Р	Р	Р	Р	Р	Р				Р	Р
Interpretive Visitor Center and Custodial Facilities					Р	MUP	MUP					
Maintenance and repair services ancillary to commercial use											Р	
Model home complex, information centers. Subject to approv a Model Home Complex Permit per NBR-PC Section 4.11	al of							Р	Р	Р	Р	Р
Native Plant Nurseries/Eco Garden Center not for profit					Р	MUP	MUP					
Nightclubs											CUP	CUP
Offices – professional											Р	
Offices – medical and dental											MUP	
Offices – administrative ancillary to principally permitted or permitted use.											Р	Р
Outdoor Dining associated with an eating and drinking establishment											MUP	MUP
Oil and natural gas facilities and operations/ surface operation	S			Р								
Oil and natural gas facilities and operations/ subsurface operat	ions	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Parks and recreation facilities/ HOA-owned, public use						Р	Р	Р	Р	Р	Р	Р
Parks and recreation facilities/ HOA-owned, private use						P	P	Р	P	Р	Р	Р
Parks and recreation facilities/public-owned, public use					Р							
Pet grooming, excluding boarding											Р	Р
Places of public assembly, including religious facilities and pla of worship	aces										CUP	
Plant growing facilities of nursery stock for profit											Р	
Plant growing facilities of nursery stock - not for profit					Р	Р	Р					<u> </u>
Printing and duplicating services											Р	Р
Public facilities (police, fire, library, etc.) – Permanent					Р						Р	<u> </u>
Public facilities (police, fire, library, etc.) – Temporary					Р			Р	P	P	Р	_
Public infrastructure, utilities, and drainage facilities, minor		Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Public infrastructure and utilities, major		CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Rental/leasing/repair of articles sold on premises				<u> </u>		<u> </u>					Р	Р
Residences, live/work											Р	l

LEGEND: P Permitted Use CUP	Condit	ional (Use Pe	rmit			Not	Permit	ted (en	npty ce	ell)
MUP	Minor	Use P	ermit								
	LAND USE DISTRICT										
	OPEN SPACE		PUBLIC PARKS/ RECREATION			RESIDENTIAL					
LAND USE TYPE/FACILITY	LOS/PTF	UOS/PTF	OF	CP (1)	ВР	IP	RL	RL/M	RM	MU/R	VSR/R
Residences, multi-family								Р	Р	Р	Р
Residences, single-family attached								Р	Р	Р	Р
Residences, single-family detached							Р	Р	Р	Р	Р
Resorts, inns, hotels, and accessory uses										CUP	CUP
Retail sales and service										Р	Р
Schools, business and professional										MUP	
Sports fields, lighted and unlighted				Р							
Studios for instruction (dance, music and similar)										Р	MUP
Studios for music, radio/television broadcasting, and similar										MUP	
Taxi stands										Р	Р
Theaters (movie and performance)										CUP	
Tourist information centers					Р	Р				Р	Р
Trails, interpretive	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Trails, multi-use (pedestrian/bicycle)	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р
Veterinary clinics, small animals										Р	
Visitor-serving retail										Р	Р
Wireless Telecommunication Facilities per NBMC Chapter 15.70	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р	Р

⁽¹⁾ Any other land uses not listed as "permitted" within the CP District may be permitted as determined by the City of Newport

Permitted subject to Section 2.6, Residential Districts," and Section 3.14.2.2, "Convenience Commercial Development Regulations."

3.10 Open Space District Regulations

3.10.1 Purpose and Intent

This section establishes the regulations governing development allowed within the Lowland Open Space/Public Trails and Facilities District (LOS/PTF), the Upland Open Space/Public Trails and Facilities District (UOS/PTF), and the Interim Oil Facilities District (OF).

3.10.2 Site Development Standards

1. LOS/PTF District and UOS/PTF District Regulations

The following regulations shall apply to all development within the LOS/PTF District and UOS/PTF District:

- a. Maximum Structure Height 18 feet;
- b. Maximum Structure Coverage one percent (1%) of total gross site area.
- c. Landscape buffers may be planted in the LOS/PTF District adjacent to the boundary of the OF District to screen oil facilities where feasible. Landscape buffers may include the planting of native trees, shrubs, and/or groundcover and/or the installation of buffer fencing pursuant to an approved Habitat Restoration Plan to visually buffer oil operations facilities within the OF District from other areas of the Project Site.

2. OF District Regulations

The following regulations shall apply to all development within the OF District:

- a. Maximum Height for Buildings 18 feet.
- b. Maximum Height all Other Surface Oil Production Structures none.
- c. All oil and gas production facilities, operations and servicing, together with all accessory structures and uses which are customarily incidental or necessary to main buildings or uses, are permitted within the Interim Oil Facilities District and shall be subject to California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR), California Laws for Conservation of Petroleum and Gas, and all other relevant State and local laws and regulations.

3.11 Public Parks/Recreation District Regulations

3.11.1 Purpose and Intent

This section establishes the regulations governing development allowed within the Community Park District (CP), Bluff Park District (BP), and Interpretive Parks District (IP).

3.11.2 CP District, BP District, and IP District Regulations

The following regulations shall apply to all development within the CP, BP, and IP Districts:

- Maximum Height for Buildings within CP District and IP District north of and adjacent to Scenic Drive – 36 feet, except that elevators and other types of mechanical space, and chimneys, towers and architectural treatments intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum height restriction by twelve (12) feet.
- 2. Maximum Height all other Structures within CP, BP, and IP Districts 18 feet.
- 3. Maximum Building Coverage Five percent (5%) of total gross site area within the CP, BP, and IP Districts.
- 4. Bluff Setback CP, BP, and IP Districts Habitable structures shall be set back a minimum of sixty (60) feet from the top of the edge of the bluff.
- 5. Setback from Roadways CP, BP, and IP Districts Buildings shall be set back a minimum of fifteen (15) feet from public road rights-of-way.
- 6. Mechanical equipment, including utility vaults, and emergency power generators, but excluding solar power equipment, shall be screened from view in a manner compatible with the building materials and building setting. Noise associated with mechanical equipment shall be attenuated to meet noise control standards set forth in NBMC Chapter 10.26, "Community Noise Control."

3.12 Visitor-Serving Resort/Residential Regulations

3.12.1 Purpose and Intent

This section establishes the regulations governing development allowed within the Visitor-Serving Resort/Residential District (VSR/R).

3.12.2 Visitor-Serving Resort/Residential District Regulations

- 1. Residential structures within the VSR/R District constructed as separate and freestanding structures from the resort inn structure are subject to the development regulations established in NBR-PC Section 3.13, "Residential Development Regulations."
- 2. Visitor-serving resort and commercial structures within the VSR/R District constructed as separate and freestanding structures from residential structures are subject to the development regulations established for the Visitor-Serving Resort in NBR-PC Section 3.14, "Commercial Development Regulations."
- 3. The following regulations shall apply to visitor-serving resort and residential uses when combined in the same structure:
 - a. The development shall be subject to the regulations established for the Visitor-Serving Resort in Exhibit 3-5, "Commercial Development Regulations Matrix." and
 - b. Each residential dwelling unit shall have a minimum floor area of 550 square feet.
- 4. The following development regulations apply to all development within the VSR/R District:
 - a. Structure Height The maximum height for any structure in the VSR/R District shall be fifty (50) feet. Elevators and other types of mechanical space, and chimneys, towers and architectural treatments intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum height restriction by twelve (12) feet.
 - b. Bluff Setback All habitable structures shall be set back a minimum of sixty (60) feet from the top of the edge of a bluff.
 - c. Bike Racks On-site bicycle rack(s) shall be provided at a minimum ratio of one bicycle space per 2500 gross square feet of commercial area.

- d. Deliveries, Loading, and Unloading Deliveries, loading, unloading, opening/closing or other handling of boxes, crates, containers, building materials, trash receptacles, or similar objects within the VSR/R land use district shall not be allowed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays.
- e. Mechanical equipment, including utility vaults, and emergency power generators, but excluding solar power equipment, shall be screened from view in a manner compatible with the building materials and building setting. Noise associated with mechanical equipment shall be attenuated to meet noise control standards set forth in NBMC Chapter 10.26, "Community Noise Control."

3.13 Residential Development Regulations

3.13.1 Purpose and Intent

This section establishes the regulations governing residential development allowed within the Low Density Residential District (RL), Low-Medium Density Residential District (RL/M), Medium Density Residential District (RM), Visitor-Serving Resort/Residential District (VSR/R), and Mixed-Use/Residential District (MU/R).

3.13.2 Low Density Residential District, Low-Medium Density Residential District, Medium Density Residential District, Visitor-Serving Resort/Residential District, and Mixed-Use/Residential District Regulations

The following regulations apply to all Residential Land Use Districts:

- Maximum structure height regulations apply to all structures within the Residential Land Use Districts as follows:
 - a. Low Density Residential District 36 feet.
 - b. Low-Medium Density Residential District 45 feet.
 - c. Medium Density Residential District 45 feet.

Elevators and other types of mechanical space, and chimneys, towers and architectural treatments, intended to add interest and variation to roof design that do not exceed ten (10) percent of the roof area, may exceed the maximum structure height by twelve (12) feet.

- 2. A minimum of one bicycle space per ten dwelling units shall be provided within multi-family residential projects.
- 3. Mechanical equipment, including utility vaults, and emergency power generators, but excluding solar power equipment, shall be screened from view in a manner compatible with the building materials and building setting. Noise associated with mechanical equipment shall be attenuated to meet noise control standards set forth in NBMC Chapter 10.26, "Community Noise Control."
- 4. The regulations contained in Exhibit 3-2, "Single-Family Detached Residential Site Development Regulations Matrix," Exhibit 3-3, "Single-Family Attached Residential Site Development Regulations Matrix," and Exhibit 3-4, "Multi-Family Residential Site Development Regulations Matrix," shall apply to all residential uses within the RL, RL/M, RM, VSR/R, and MU/R Land Use Districts.

3.13.3 HOA Recreation Facility Regulations

The following regulations shall apply to private Homeowner Association (HOA) facilities intended for the exclusive use of homeowners and their guests within all Residential Land Use Districts:

1. Permitted Recreation Facilities

- a. Swimming pools, spas/jacuzzis, lap pools, kiddie pools, and similar water recreation facilities, including associated safety fencing, poolside lounges, tables, and chairs, pump and filter buildings and enclosures, and similar associated improvements.
- Tennis courts, paddle/pickle ball courts, handball courts, full/half basketball courts, and similar hard court facilities.
- c. Picnic facilities, barbeque areas, seating areas, conversation pits, small amphitheaters, and similar family and group areas,
- d. Lawn, open turf, and other landscape areas, both functional and/or solely aesthetic, including associated walkways, fountains, lighting, and furniture.
- e. Areas for shuffleboard, putting greens, croquet, horseshoes, bocce ball, lawn bowling, and similar outdoor games.
- f. Buildings used for recreational activities such cards and billiards, arts and crafts, health and fitness, saunas, showers and restrooms, HOA offices and meeting rooms, member social events, kitchens, food preparation and meals, and similar activities commonly associated with HOA needs and programs, including storage, HVAC and pool equipment, and similar areas.
- g. Other uses compatible with the above uses that may be proposed and approved during Site Development Review, potentially including recycling centers and similar facilities intended to promote sustainability.

2. Maximum Heights

- Maximum structure height shall not exceed the maximum height established for structures within the Residential Land Use District within which the HOA Recreation Facility is located.
- b. Maximum walls and fence height shall not exceed the maximum height of residential walls and heights within the Residential Land Use District within which the HOA Recreation Facility is located, or as otherwise required by the City for public health and safety (e.g., fencing around swimming pools).

Off-Street Parking

- a. Off-street parking shall not be required for outdoor HOA Recreation Facilities.
- b. Off-street parking shall not be required for an HOA recreation building that is an integral part of and solely serve a contiguous multi-family residential development or mixed-use development.
- c. Off-street parking may be required for HOA recreation buildings serving a one or more single family development or more than one non-contiguous multi-family residential or mixed development. Such requirement shall be determined at the time of Site Development Review for the HOA Recreation Facility. If fronting on a public local street, on-street parking, either in diagonal bays or as parallel parking spaces may be used to satisfy what would otherwise be the off-street parking requirement, with the exception of arterials.
- d. Any off-street parking areas required for HOA recreation buildings shall conform with NBMC Section 20.40.080, "Parking for Nonresidential Uses in Residential Zoning Districts."
- e. Overnight parking of any vehicles in HOA parking lots is prohibited.

4. Bicycle Racks

- a. Bicycle racks shall be provided at all HOA Recreation Facilities as determined at the time of Site Development Review for the HOA Recreation Facility.
- b. Not less than ten (10) lockable bike spaces shall be provided.
- 5. Outdoor Storage of construction, landscape, and similar materials is prohibited.
- 6. The hours of operation for an HOA Recreation Facility, potentially including different hours for different components of the facility, may be determined at the time of Site Development Review for the facility based upon its particular size, location, and functions with the community.
- 7. Development standards for each HOA Recreational Facility not addressed above shall be determined at the time of Site Development Review for the facility based upon its particular size, location, and functions with the community.

EXHIBIT 3-2

SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

	TYPE OF SINGLE-FAMILY DETACHED RESIDENTIAL					
DEVELOPMENT REGULATIONS	Conventional Yards	Dual Front Side Yard ⁽¹⁾	Side-Yard ⁽¹⁾	Z-Lot ⁽¹⁾	Cluster/ Courtyard ⁽²⁾	Compound ⁽³⁾
LOT STANDARDS						
Min. Lot Size (sq. ft.)	3,200	2,400	2,400	2,400	1,700 (2)	3,200 (3)
Min. Building Site Area per Home (sq. ft.)	3,200 (6)	2,400 (6)	2,400 (6)	2,400 (6)	1,700 (2)	1,600 (3)
Min. Lot Width at Front Setback (ft.)	30′	25′	25′	25′	30′ (2)	30′ ⁽³⁾
Min. Lot Depth (ft.)	75′	70′	70′	70′	40′ (2)	60′ ⁽³⁾
Min. Lot Frontage at Street Right-of-Way (ft.)						
Typical Condition	30′	25′	25′	25′	30′ (2)	30'
Cul-de-sac or Knuckle Condition	20′	20′	20′	20′	20′ (2)	20′
BUILDING STANDARDS						
Max. Structure Height (ft.) (4)	Refer to 3.13.	.2 for Maxim	um Structure	e Height per	District.	
Max. Building Coverage (% of lot)	70%	<i>7</i> 5%	75%	75%	85%	75%
Min. Building Separation (ft.) (5)						
Front to Front	- ⁽⁶⁾	(6)	(6)	(6)	24'	12′
Front to Side	- ⁽⁶⁾	(6)	(6)	(6)	8′	8′
Side to Side	10′	10′	10′	8′	6′	6′
 Rear to Rear (if not rear loaded garages) 	20′	16′	16′	16′	6′	6′
Rear to Rear (if rear-loaded garages)	(6)	(6)	(6)	(6)	28′	28′
SETBACK STANDARDS (8)						
Min. Front Yard (ft.)						
 Main Building and Accessory Structure from Scenic Drive Right of Way 	10′	10′	10′	10′	10′	10′
Main Building from Interior Local Street Right- of-Way	10′	5′	5′	5′	5′	5′
Accessory Structure from Interior Street Right- of-Way	5′	5′	5′	5′	5′	5′
Min. Rear Yard (ft.)		•				
Main Building from Property Line	10′	8′	8′	8′	3′ ⁽²⁾	3'
Accessory Structure from Property Line	0′	0′	0′	0′	0′ (2)	0′

	TYPE OF SINGLE-FAMILY DETACHED RESIDENTIAL					
DEVELOPMENT REGULATIONS	Conventional Yards	Dual Front Side Yard ⁽¹⁾	Side-Yard ⁽¹⁾	Z-Lot ⁽¹⁾	Cluster/ Courtyard ⁽²⁾	Compound ⁽³⁾
Min. Side Yard (ft.)						
Main Building from Property Line	5′	5′	0′/10′	4'	3′ (2)	4'
Accessory Structure from Property Line	0′	0′	0′	0′	0′ (2)	0′
Garage ⁽¹³⁾ Setbacks (ft.)						
From Street Right-of-way, Street-Facing Garages	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′
Min. from Street Right-of-Way, Swing-in Driveway (9)	8′	8′	8′	8′	8′ (2)	8′
Min. from Center Line of Alley for Rear Loaded Garages	14′	14′	14′	14′	14′	14′
Minimum Habitable Structure Setback from Top of Edge of Bluff	60′	60′	60′	60′	60′	60′
Minimum Habitable Structure Setback from Abandoned Oil Well Head	10′	10′	10′	10′	10′	10′
Minimum Habitable Structure Setback from Active Oil Well Head	100′	100′	100′	100′	100′	100′
USABLE PRIVATE OPEN SPACE STANDARDS (10)						
Min. Open Space per Unit (sq. ft.)	150	140	140	130	120	100
Min. Dimension (ft.)	7′	7'	7'	7'	7'	7'
Min. Vertical Clearance (ft.)	8′	8′	8′	8′	8′	8′
Max. Slope	5%	5%	5%	5%	5%	5%
WALL/FENCE STANDARDS						
Max. Height - Privacy/Decorative						
Within Minimum Required Front Yard Adjacent to Street (12)	42"	42"	42"	42"	42"	42"
Interior Rear or Side Yard not Adjacent to Street	6′	6′	6′	6′	6′	6′
Rear or Side Yard Adjacent to Street	6′ plus 2′	6' plus 2'	6′ plus 2′	6' plus 2'	6' plus 2'	6' plus 2'
(see also Section 3.4.11)	retaining (11)	retaining	retaining	retaining	retaining	retaining
Max. Height – Sound Attenuation Walls Adjacent to Arterial Streets and Industrial Uses Outside NBR-PC	8' (including retaining wall) ⁽¹¹⁾	8' (including retaining wall (11)				
PARKING STANDARDS						
Resident Parking						
_	Per NBR-PC Section 3.7, Parking Regulations.					

EXHIBIT 3-2 FOOTNOTES

SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

- (1) Shared-use/reciprocal access easement side yard home types only.
- ⁽²⁾ Cluster/Courtyard Homes may be developed as a condominium project and/or as individual fee lots with common open space. Dimensions are for individual fee lots, without considering the common open space that would be part of a condominium style project. Minimum lot dimensions, side and rear-yard setback criteria, and lot coverage criteria are applicable only to single-family detached residential development on individual fee simple lots and are not applicable to condominium single-family detached residential developments. All other development regulations apply to condominium single-family detached residential developments.
- (3) A Compound Home is a main house and a guest house on an irregularly-shaped lot.
- (4) The maximum structure height within each Residential Land Use District is established for each District in Section 3.13.2.1. Elevators and other types of mechanical space and chimneys, towers and other non-habitable architectural features intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum structure height restriction by twelve (12) feet.
- (5) Minimum building separation applies to homes on same side of roadways, alleys, or pedestrian paseos.
- (6) Type of development regulation Does Not Apply to this single-family detached housing type.
- (7) Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details on the second level of rear loaded structures may encroach a maximum of three feet within the required minimum building separation provided the details do not encroach into required fire/public safety accessways.
- (8) Setbacks are measured from property line unless noted otherwise. Garage setbacks are measured from back of sidewalk or from curb face if no sidewalk is present. Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details may encroach a maximum of 1.5 feet within side and rear yard setback area provided the details do not encroach into required fire/public safety accessways. No encroachments into front yard or streetside setbacks are permitted.
- (9) Swing-in garages are permitted only on lots 55 feet wide or wider.
- ⁽¹⁰⁾ Useable Private Open Space includes rear and/or side yards, courtyards, patios, decks, roof decks, and other landscape/hardscape areas that satisfy the minimum size and dimension requirements.
- (11) Higher walls may be allowed if required by an EIR mitigation measure or if recommended by a City-approved acoustical study.
- Outside of the minimum required Front Yard Section 3.2.7(4) permits fences and walls up to a maximum of six feet, where such fences and walls will provide appropriate privacy for patios or similar usable resident areas.
- (13) All garages shall have roll-up doors.

EXHIBIT 3-3

SINGLE-FAMILY ATTACHED RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

	TYPE OF SINGLE-FAMILY ATTACHED RESIDENTIAL				
DEVELOPMENT REGULATIONS	Duplex	Rowhouse / Townhome	Triplex ⁽¹⁾	Villa ⁽²⁾	
LOT STANDARDS					
Min. Lot Size (sq. ft.)	3,200	2,000	6,750	3,600	
Min. Building Site Area per Unit (sq. ft.)	1,600	2,000	2,250	1,800	
Min. Lot Width at Front Setback (ft.)	30′	24′	50′	30′	
Min. Lot Depth (ft.)	80′	80′	80′	80′	
Min. Lot Frontage at Street Right-of-Way (ft.)	•				
Typical	30′	24′	50′	30′	
Cul-de-sac or Knuckle	20′	20′	40′	20′	
BUILDING STANDARDS					
Max. Structure Height (ft.) (3)	Refer to Section 3.13.2 for Maximum Structure Height per Residential District.				
Max. Building Coverage (% of lot)	80%	85%	85%	<i>7</i> 5%	
Min. Building Separation (ft.) (4)	•				
Front to Front	(5)	- ⁽⁵⁾	16′ (6)	(5)	
Front to Side	(5)	_ (5)	8′ (6)	(5)	
Side to Side	(5)	_ (5)	6′ (6)	(5)	
Rear to Rear (if not rear-loaded garages)	(5)	_ (5)	6′ (6)	(5)	
Rear to Rear (if rear-loaded garages)	28′ (6)	28′ (6)	28′ (6)	28′ (6)	
SETBACK STANDARDS (7)					
Min. Front Yard (ft.)					
Main Building and Accessory Structures from Scenic Drive Right-of-Way	10′	10′	10′	10′	
Main Building from Interior Street Right-of-Way	5′	5′	5′	5′	
Accessory Structure from Interior Street Right-of- Way	3′	3′	3′	3′	

	TYPE OF SINGLE-FAMILY ATTACHED RESIDENTIAL				
DEVELOPMENT REGULATIONS	Duplex	Rowhouse / Townhome	Triplex ⁽¹⁾	Villa ⁽²⁾	
Min. Rear Yard (ft.)					
Main Building from Property Line	5′	3′	3′	8′	
Accessory Structure from Property Line	0′	0′	0′	0′	
Min. Side Yard (ft.)					
Main Building from Property Line	3'	3′	3'	3'	
Accessory Structure from Property Line	0′	0′	0′	0′	
Garage ⁽¹²⁾ Setbacks (ft.)					
Min. from Street Right-of-Way, Street-facing Garages	3′	3′	3′	3′	
Min. from Street Right-of-Way, Swing-in Driveway (8)	8′	8′	8′	8′	
Min. from Alley Right-of-Way / Lot	0′	0′	0′	0′	
Garage Door to Street Right-of-Way / Back of Sidewalk	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	≤3′, <u>></u> 19′	
Minimum Habitable Structure Setback from Top of Edge of Bluff	60′	60′	60′	60′	
Minimum Habitable Structure Setback from Abandoned Oil Well Head	10′	10′	10′	10′	
Minimum Habitable Structure Setback from Active Oil Well Head	100′	100′	100′	100′	
USABLE PRIVATE OPEN SPACE STANDARDS (9)					
Min. Open Space per Unit (sq. ft.)	100	100	100	100	
Min. Dimension (ft.)	7'	7'	7'	7'	
Min. Vertical Clearance (ft.)	8′	8′	8′	8′	
Max. Slope	5%	5%	5%	5%	
WALL/FENCE STANDARDS	Ì				
Max. Heights – Privacy/Decorative					
Within Minimum Required Front / Side Yard Adjacent to Street (11)	42"	42"	42"	42"	
Interior Rear or Side Yard not Adjacent Street	6'	6′	6′	6′	
Rear or Side Yard Adjacent to Street (see Section 3.4.11)	6' plus 2' retaining (10)	6' plus 2' retaining (10)	6' plus 2' retaining (10)	6' plus 2' retaining (10)	

	TYPE OF SINGLE-FAMILY ATTACHED RESIDENTIAL				
DEVELOPMENT REGULATIONS	Duplex	Rowhouse / Townhome	Triplex ⁽¹⁾	Villa ⁽²⁾	
Max. Heights – Sound Attenuation Walls Adjacent to Arterial Streets and Industrial Uses Outside NBR-PC	8' including retaining (10)	8' including retaining ⁽¹⁰⁾	8'including retaining (10)	8' including retaining (10)	
PARKING STANDARDS					
Resident Parking	Per NBR-Section 3.7, Parking Regulations.				
Guest Parking	Per NBR-PC Section 3.7, Parking Regulations.				

EXHIBIT 3-3 FOOTNOTES

SINGLE-FAMILY ATTACHED RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

- (1) A Triplex with Carriage consists of a residential structure on a condominium lot with two rowhouse units and a carriage unit, typically over a garage.
- ⁽²⁾ A Villa consists of a single-family or duplex residence on a fee ownership lot, where separate living areas potentially with separate doors, share the kitchen and potentially other rooms within the unit. It is intended especially for the needs of multi-generational families living under the same roof.
- (3) The maximum structure height within each Residential Land Use District is established for each District in Section 3.13.2.1. Elevators and other types of mechanical space and chimneys, towers and other non-habitable architectural features intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum structure height restriction by twelve (12) feet.
- (4) Minimum building separation applies to homes on same side of roadways, alleys, or pedestrian paseos.
- (5) <u>Does Not Apply</u> if one Single-Family Attached Residential Unit is proposed on one lot. If more than one duplex, rowhouse/townhome, or villa is proposed on one lot, the minimum building separation will be as determined in City's Site Development Review of project.
- (6) Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details on the second level of rear loaded structures may encroach a maximum of three feet within the required minimum building separation provided the details do not encroach into required fire/public safety accessways.
- ⁽⁷⁾ Setbacks are measured from property line unless noted otherwise. Front loaded or swing in garage setbacks are measured from back of sidewalk or from curb face if no sidewalk is present. Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details may encroach a maximum of 1.5 feet within front, side and rear yard, and streetside setback area provided the details do not encroach into required fire/public safety accessways.
- (8) Swing-in garages are permitted only on lots 55 feet wide or wider.
- (9) Useable Open Space includes rear and/or side yards, courtyards, patios, decks, roof decks, and other landscape/hardscape areas that satisfy the minimum size and dimension requirements.
- (10) Higher walls will be allowed if required by an EIR mitigation measure or if recommended by a City-approved acoustical study.
- (11) Outside of the minimum required Front Yard Section 3.2.7(4) permits fences and walls up to a maximum of six feet, where such fences and walls will provide appropriate privacy for patios or similar usable resident areas.
- (12) All garages shall have roll-up doors.

EXHIBIT 3-4

MULTI-FAMILY RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

	TYPE OF MULTI-FAMILY RESIDENTIAL			
DEVELOPMENT REGULATIONS	Stacked Flats within Residential Districts	Stacked Flats within Visitor-Serving Resort/ Residential District	Stacked Flats within Mixed-Use/ Residential District	
LOT STANDARDS				
Min. Building Site Area per Unit (sq. ft.)	1,200	1,200	<i>7</i> 50	
BUILDING STANDARDS				
Max. Structure Height (ft.) (1)	Refer to Maximum	Building Height for ap	plicable District.	
Max. Building Coverage (% of Site)	85%	90%	90%	
Min. Building Separation (ft.) (2)				
Front to Front	24′ (3)	24′ (3)	24′ (3)	
Front to Side	10′ (3)	10′ (3)	10′ (3)	
Side to Side	6′ ⁽³⁾	6′ ⁽³⁾	6′ ⁽³⁾	
Rear to Rear (if not rear-loaded garages)	8′ (3)	8′ (3)	8′ ⁽³⁾	
Rear to Rear (if rear-loaded garages)	28′ (3)	28′ (3)	28′ (3)	
SETBACK STANDARDS (4)				
Building Setbacks (ft.)				
Min. from Arterial Street Right-of-Way	10′	10′	10′	
Min. from Scenic Drive Right-of-Way	10′	10′	10′	
Min. from Local Street Right-of-Way	5′	5′	5′	
Min. from Parks and Open Space	10′	10′	20′	
Min. from Adjacent Uses Outside NBR-PC	_		20′	
Minimum Habitable Structure Setback from Top of Edge of Bluff	60′	60′	60′	
Minimum Habitable Structure Setback from Abandoned Oil Well Head	10′	10′	10′	
Minimum Habitable Structure Setback from Active Oil Well Head	100′	100′	100′	

	TYPE OF MULTI-FAMILY RESIDENTIAL				
DEVELOPMENT REGULATIONS	Stacked Flats within Residential Districts	Stacked Flats within Visitor-Serving Resort/ Residential District	Stacked Flats within Mixed-Use/ Residential District		
Parking Area Setbacks (ft.)					
Min. from Arterial Street Right-of-Way		-	15′		
Min. from Local Street Right-of-Way	10′	10′	15′		
Min. from Residential District		_	10′		
Min. from CP District		_	10′		
Min. from Open Space District	-	-	10′		
COMMON OPEN SPACE STANDARDS (5)					
Minimum Open Space per Unit (sq. ft.)	50	50	50		
Min. Dimension (ft.)	15′	15′	15′		
USABLE PRIVATE OPEN SPACE STANDARDS (6)					
Min. Open Space per Unit (sq. ft.)	70	70	70		
Min. Dimension (ft.)	7'	7'	7'		
Min. Vertical Clearance (ft.)	8′	8′	8′		
Max. Slope	5%	5%	5%		
WALL/FENCE STANDARDS					
Max. Heights – Privacy/Decorative					
Within Minimum Required Front / Side Yard Adjacent to Street (8)	42"	42"	42"		
Interior Rear or Side Yard not Adjacent to Street	6′	6′	6′		
Rear or Side Yard Adjacent to Street (see Section 3.4.11)	6' w/ 2' retaining ⁽⁷⁾	6' w/ 2' retaining ⁽⁷⁾	6' w/ 2' retaining ⁽⁷⁾		
Max. Heights – Sound Attenuation Adjacent Arterial Streets and Industrial Uses Outside NBR-PC	8' includes retaining ⁽⁷⁾	8' includes retaining ⁽⁷⁾	8' includes retaining ⁽⁷⁾		
PARKING STANDARDS					
Resident Parking	Per NBR-PC Section 3.7, Parking Regulations.				
Guest Parking	Per NBR-PC Section 3.7, Parking Regulations.				

EXHIBIT 3-4 FOOTNOTES

MULTI-FAMILY RESIDENTIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

- (1) The maximum structure height within each Residential Land Use District is established for each District in Section 3.13.2.1. Elevators and other types of mechanical space and chimneys, towers and other non-habitable architectural features intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum structure height restriction by twelve (12) feet.
- (2) Minimum building separation applies to homes on same side of roadways, alleys, or pedestrian paseos.
- (3) Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details on the second level of rear loaded structures may encroach a maximum of three feet within the required minimum building separation provided the details do not encroach into required fire/public safety accessways.
- (4) Setbacks are measured from property line unless noted otherwise. Front loaded or swing in garage setbacks are measured from back of sidewalk or from curb face if no sidewalk is present. Architectural details (such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details) may encroach a maximum of 1.5 feet within side and rear yard setback area provided the details do not encroach into required fire/public safety accessways. No encroachments into front yard or streetside setbacks are permitted.
- (5) Common Open Space may include swimming pools, recreation areas, recreation buildings, and roof decks.
- (6) Useable Private Open Space includes rear and/or side yards, courtyards, patios, decks, roof decks, and other landscape/hardscape areas that satisfy the minimum size and dimension requirements. Usable Open Space may be either private (e.g., balconies, decks, roof decks accessible directly from units, etc.) and/or common (plazas, recreation decks, swimming pools, etc.).
- ⁽⁷⁾ Higher walls will be allowed if required by an EIR mitigation measure or recommended by a City-approved acoustical study.
- (8) Outside of the minimum required Front Yard Section 3.2.7(4) permits fences and walls up to a maximum of six feet, where such fences and walls will provide appropriate privacy for patios or similar usable resident areas.

3.14 Commercial Regulations

3.14.1 Purpose and Intent

This section establishes the regulations governing development of commercial uses allowed within the Mixed-Use/Residential District (MU/R), Visitor-Serving Resort/Residential District (VSR/R), Low-Medium Density Residential District (RL/M), and Medium Density Residential District (RM).

3.14.2 Mixed-Use/Residential District, Visitor-Serving Resort/Residential District, Low-Medium Density Residential District, and Medium Density Residential District Regulations

The regulations contained in Exhibit 3-5, "Commercial Development Regulations Matrix," apply to all commercial uses allowed within MU/R, VSR/R, RL/M, and RM Land Use Districts.

1. General Development Regulations

- a. A maximum of 75,000 square feet of commercial development is allowed within the Project Site. Commercial uses constructed as part of a resort inn facility as allowed within the VSR/R Land Use District which may include restaurants, bars, full-service spas, fitness centers, specialty shops, banquet and meeting facilities, and similar uses which are customarily developed as part of or in conjunction with a resort inn use shall not be counted as part of the maximum permitted 75,000 square feet of commercial development
- b. Visitor-serving commercial uses constructed independent of a resort inn, such as, but not limited to, restaurant(s) and bars, gift and sundry shops, business centers, fitness centers, spas and salons, swimming pools and recreation facilities and similar uses are allowed pursuant to Section 4.17.3, "Transfer of Commercial Area from the MU/R District to the VSR/R District. These types of visitor-serving commercial uses shall be counted as part of the maximum allowable 75,000 square feet of commercial development.
- c. All refuse waste containers, excluding sidewalk trash receptacles, shall be enclosed within a building or a fully-enclosed architectural structure that is visually compatible with the main building.
- d. A minimum of one bicycle space per each 2,500 square feet of gross commercial floor area shall be provided as part of all commercial development.
- e. Service vehicle routes shall be designed to provide direct access to service and loading dock areas and avoid movement across commercial parking areas.

- f. Deliveries, Loading, and Unloading Deliveries, loading, unloading, opening/closing or other handling of boxes, crates, containers, building materials, trash receptacles, or similar objects within the VSR/R land use district shall not be allowed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays.
- g. Outdoor storage and display of materials, merchandise, and equipment for outdoor activities of non-residential uses in the MU/R and VSR/R land use districts shall comply with NBMC Section 20.48.140, "Outdoor Storage, Display, and Activities."
- h. Mechanical equipment, including utility vaults, and emergency power generators, but excluding solar power equipment, shall be screened from view in a manner compatible with the building materials and building setting. Noise associated with mechanical equipment shall be attenuated to meet noise control standards set forth in NBMC Chapter 10.26, "Community Noise Control."

2. Convenience Commercial Development Regulations

In addition to the regulations as provided for in Section 3.14.2.1, "General Development Regulations," the following regulations, shall govern development of Convenience Commercial uses allowed within the Low-Medium Density Residential District (RL/M) and Medium Density Residential District (RM).

- a. A maximum of 2,500 square feet of Convenience Commercial uses is permitted within the R/LM or RM District pursuant to Section 2.6,"Residential Districts," subject to the following regulations:
 - 1) Convenience Commercial businesses may be located within and/or adjacent to HOA-owned and -operated facilities.
 - 2) Commercial building(s) shall front onto either a public local street or arterial road.
 - 3) All convenience commercial uses shall be conducted within buildings unless otherwise expressly authorized as part of Site Development Review.
 - 4) Outdoor storage of materials and merchandise is prohibited.
 - 5) Hours of operation shall be addressed in the Site Development Review and may be imposed as a condition of approval.
 - 6) For commercial uses fronting a public local street other than an arterial street, onstreet, parking, either in diagonal bays or as parallel parking spaces, may be used to satisfy what would otherwise be the off-street parking requirement.

EXHIBIT 3-5

COMMERCIAL DEVELOPMENT REGULATIONS MATRIX Newport Banning Ranch

	LAND USE DISTRICT				
	MU/R		VSR/R	RL/M, RM	
DEVELOPMENT REGULATIONS	Vertical Mixed-Use	Free Standing Commercial	Visitor-Serving Resort	Convenience	
BUILDING STANDARDS					
Max. Floor-Area Ratio (FAR)	2.5	2.0	1.5	1.0	
Max. Structure Height (ft.) (1)	Refer to Maxim	num Building H	eight for applica	ble District.	
Max. Building Coverage (% of Site)	90%	90%	80%	80%	
Min. Building Separation (ft.) (2)					
• Front to Front	24'	24′	18′	18′	
• Front to Side	24'	24′	18′	18′	
• Side to Side	12′	12′	12′	12'	
Rear to Rear	12′	12′	12′	12′	
SETBACK STANDARDS (3)					
Building Setbacks (ft.)					
Min. from Arterial Street Right-of-Way	10	10	10	10	
Min. from Local Street Right-of-Way	0′	0′	5′	0′	
Min. from Residential Districts	20′	20′	10′	10′	
Min. from Parks and Open Space Districts	20′	20′	10′	10′	
Min. from Adjacent Uses Outside NBR-PC	20′	20′	-		
Min. from Top of Edge of Bluff	60′	60′	60′	60′	
Minimum Habitable Structure Setback from Abandoned Oil Well Head	10′	10′	10′	10′	
Minimum Habitable Structure Setback from Active Oil Well Head	100′	100′	100′	100′	
Parking Area Setbacks (ft.)					
Min. from Arterial Street Right-of-Way	15′	15′	10′	0′	
Min. from Local Street Right-of-Way	15′	15′	5′	0′	
Min. Residential District	10′	10′	10′	10′	
Min. from Parks and Open Space District	10′	10′	10′	0′	

	LAND USE DISTRICT				
	М	U/R	VSR/R	RL/M, RM	
DEVELOPMENT REGULATIONS	Vertical Mixed-Use	Free Standing Commercial	Visitor-Serving Resort	Convenience Commercial	
LANDSCAPE / HARDSCAPE STANDARDS	ĬI.				
Min. Landscape / Decorative Hardscape Coverage (% of Site)	5%	5%	10%	5%	
WALL / FENCE STANDARDS (4)	Ì				
Max. Heights – Privacy/Decorative					
Front / Side Yard Adjacent Street	42"	42"	42"	42"	
Rear / Side Yard not Adjacent Street	6′	6′	6′	6′	
Max. Heights – Sound Attenuation Adjacent Arterial Streets and Industrial Uses Outside NBR-PC	8′ (4)	8′ (4)	8′ (4)	8′ (4)	
PARKING STANDARDS					
Commercial Parking	Per NBR-PC Section 3.7, Parking Regulations.				
Resident Parking	Per NBR-PC Section 3.7, Parking Regulations.				
Guest Parking	Per NBR-PC Section 3.7, Parking Regulations.				

Elevators and other types of mechanical space and chimneys, towers and other non-habitable architectural features intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum structure height restriction by twelve (12) feet. The maximum structure height shall not exceed the Maximum Structure Height established for the Land Use District. Elevators and other types of mechanical space, and chimneys, towers and other non-habitable architectural features, intended to add interest and variation to roof design, that do not exceed ten (10) percent of the roof area may exceed the maximum structure height by twelve (12) feet..

⁽²⁾ Minimum building separation applies to buildings on same side of roadways, alleys, or pedestrian paseos.

⁽³⁾ Setbacks are measured from property line unless noted otherwise. Architectural details such as porches, roof overhangs, fireplaces, bay windows, pot shelves/brackets, and similar details may encroach a maximum of 1.5 feet within side and rear yard setback area provided the details do not encroach into required fire/public safety accessways. No encroachments into front yard or streetside setbacks are permitted.

⁽⁴⁾ Higher walls will be allowed if required by an EIR mitigation measure or recommended by a City-approved acoustical study.

3.15 Mixed-Use / Residential Regulations

3.15.1 Purpose and Intent

This section establishes the regulations applicable to development in the Mixed-Use/ Residential District (MU/R) of both residential and commercial uses within separate buildings together on one site (horizontal mixed-use), and/or combined within one building (vertical mixed-use).

3.15.2 Mixed-Use/Residential District Regulations

- 1. Residential uses in freestanding buildings separate from commercial buildings are subject to the development regulations established for the specific housing type in Section 3.13, "Residential Development Regulations," and the respective development regulations provided for in Exhibits 3-2 through 3-5 of that section.
- Commercial uses in freestanding buildings separate from residential uses are subject to the
 development regulations for commercial uses established in Section 3.14, "Commercial
 Development Regulations," and to the development regulations established in Exhibit 3-5 for
 "Commercial Development Regulations Matrix."
- Commercial uses shall be located and designed so that the commercial building fronts the street and are oriented towards public plazas, courtyards, and/or streets.
- 4. The maximum height for any building in the MU/R District is sixty (60) feet. Elevators, mechanical space, chimneys, towers and architectural treatments, intended to add interest and variation to roof design, and that do not exceed ten (10) percent of the roof area, or exceed the height restriction by more than twelve (12) feet, are permitted.
- 5. Deliveries, Loading, and Unloading Deliveries, loading, unloading, opening/closing or other handling of boxes, crates, containers, building materials, trash receptacles, or similar objects within the VSR/R land use district shall not be allowed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays.
- 6. Mechanical equipment, including utility vaults, and emergency power generators, but excluding solar power equipment, shall be screened from view in a manner compatible with the building materials and building setting. Noise associated with mechanical equipment shall be attenuated to meet noise control standards set forth in NBMC Chapter 10.26, "Community Noise Control."

3.15.3 Vertical Mixed-Use Development Regulations

Vertical mixed-use development, where commercial uses are located on the ground floor and residential uses are located above commercial uses, is subject to the development regulations provided for in Section 3.14, "Commercial Regulations, and the development regulations Vertical Mixed-Use as provided for in Exhibit 3-5, Commercial Development Regulations Matrix. The following additional regulations apply to vertical mixed-use development:

- 1. Residential areas shall have a separate entrance(s) from the commercial portion(s) of the project.
- 2. Development regulations for a vertical mixed-use building shall be those for "Vertical Mixed-Use" in Section 3.14, "Commercial Regulations."
- 3. A minimum floor area per residential unit of 550 square feet shall be provided. Minimum floor area per residential unit may be reduced to 450 square feet for affordable studio apartment housing units.
- 4. Commercial uses shall be located and designed so that the commercial building fronts the street and are oriented towards public plazas, courtyards, and/or streets.
- 5. Plazas and/or courtyards visible from a public street are required as part of the project. Plazas and/or courtyards shall be at least fifty (50) feet wide at a point perpendicular to adjacent buildings.
- 6. Commercial uses that face a public plaza or street shall use sixty percent (60%) transparent material (e.g., clear glass) on their exterior building façades between three (3) and eight (8) feet above grade.
- 7. No building façade that extends along a sidewalk shall be blank or flat (without doors, windows, or articulation) for more than fifty (50) feet.
- 8. The use of recessed windows and doors is required. Varying building heights, building setbacks, roof shapes, wall lengths, and trim elements shall be incorporated into the project architecture.
- 9. Parking shall be either subterranean and/or located to the rear of the buildings with commercial frontage as the primary streetscape element. Parking facilities shall be physically separated for nonresidential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for nonresidential and residential uses with separate building entrances, whenever possible, subject to confirmation and approval by the review authority.

- 10. Private open space areas shall be provided for residential dwelling units in accordance with the minimum requirements established for multi-family residential dwelling units in Exhibit 3-4, Private open space areas (i.e., balconies, decks, porches, etc.) shall be designed to limit intrusion by nonresidents.
- 11. Common open space areas shall be provided for residential dwelling units in accordance with the minimum requirements established for multi-family residential dwelling units in Exhibit 3-4. Common open space areas required for residential dwelling units shall be separated from nonresidential uses on the site and shall be sited and designed to limit intrusion by nonresidents and customers of nonresidential uses. However, the sharing of common open space may be allowed by the review authority when it is clear that the open space will provide direct benefit to project residents. Common open space uses may be provided on rooftops for use only by the project residents.
- 12. An acoustical analysis report, prepared by an acoustical engineer, shall be submitted to the Director describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. Projects shall be attenuated in compliance with the report. Mixed-use projects shall comply with the noise standards, NBMC Chapter 10.26, "Community Noise Control."
- 13. Loading areas for nonresidential uses shall be located as far away as possible from residential uses and shall be completely screened from view from the residential portion of the project and public rights-of-way. Loading areas shall be compatible in architectural design and details with the overall project. The location and design of loading areas shall mitigate nuisances from odors when residential uses might be impacted.
- 14. Separate site access driveways shall be provided, whenever possible, for nonresidential and residential uses. Site access driveways shall incorporate distinctive architectural elements, landscape features, and signs to help differentiate access to nonresidential parking areas from access to residential parking areas.
- 15. Buffering and screening shall be provided in compliance with NBMC Section 20.30.020 (Buffering and Screening). Mixed-use projects shall locate commercial loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.
- 16. Deliveries, Loading, and Unloading Deliveries, loading, unloading, opening/closing or other handling of boxes, crates, containers, building materials, trash receptacles, or similar objects within the VSR/R land use district shall not be allowed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays.
- 17. Bike parking spaces shall be provided per NBR-PC Section 3.14, "Commercial Regulations."

3.15.4 Live-Work Residences Development Regulations

Live-work units, where a residence is located to the rear of, or on top of, an artist's or professional studio, commercial retail space, or office store front, shall be located only within commercial buildings or vertically-integrated mixed-use buildings, and are subject to the following regulations:

- 1. Residential dwellings shall have a minimum habitable floor area of 550 square feet.
- 2. Commercial sales, office or studio areas shall have a minimum floor area of 450 square feet.
- 3. The Commercial/office area of the live/work unit shall front a public plaza, courtyard, or street.
- 4. The residential area of the live/work unit shall be located either above or to the rear of the commercial area.
- 5. Commercial/office uses shall comprise the primary ground-floor front entrance.
- 6. Entries into the residential portion of the live-work unit shall be separate and clearly identified as such.

3.15.5 Outdoor Storage, Display, and Activities

Outdoor storage and display of materials, merchandise, and equipment for outdoor activities of non-residential uses in the MU/R and VSR/R land use districts shall comply with NBMC Section 20.48.140, "Outdoor Storage, Display, and Activities."

4

IMPLEMENTATION AND ADMINISTRATION

4.1 Purpose and Intent

This Chapter establishes procedures for the implementation and administration of the NBR-PC.

4.2 Development Permits Required

All development within the NBR-PC is subject to approval of the discretionary and ministerial permits as described in this Chapter.

4.3 Interpretation and Enforcement

4.3.1 Interpretation

The Community Development Director has the authority to interpret the meaning of provisions of the NBR-PC, including exhibits, and to apply and/or enforce the NBR-PC. The Director may also refer any issue of interpretation to the Planning Commission (Commission) for input or a determination. A decision of the Director may be appealed to the Commission in compliance with Chapter 20.64, "Appeals," of the NBMC.

4.3.2 Enforcement

All conditions, requirements, and standards, indicated graphically or in writing as part of any approved discretionary permit or detailed plan granted by authority of these regulations, shall have the same force and effect as the Land Use and Development Regulations contained in Chapter 3 of the NBR-PC. Any use or development established as a result of such approved permit or plan, but not in compliance with all such conditions, requirements, and standards shall be in violation of the NBR-PC. The provisions of Chapter 20.68, "Enforcement," of the NBMC are applicable to all activities within the Project Site.

4.4 Master Development Plan

4.4.1 Purpose and Intent

Approval by the City of a Master Development Plan (MDP) for the 401.1-acre Project Site is required prior to issuance of any grading or construction permit for development of any portion of the Project Site. The purpose of the MDP is to provide plans for grading roadways, infrastructure, restoration activities within the Open Space Land Use Districts and development activities within the Residential , Visitor-Serving Resort and Residential, Mixed-Use and Residential and Park and Recreation Land Use Districts. The MDP shall provide design criteria for each private land use component proposed within each Land Use District at a sufficient level of detail to guide the review of subsequent development approvals as required by this Chapter prior to issuance of construction-level permits.

4.4.2 Contents of a Master Development Plan

The following are the minimum required components of any MDP application. The Director may require additional components and/or materials as part of an MDP application.

- 1. Development plans and statistical summaries for open space, park and development areas within the Project Site prepared at a sufficient level of detail to determine general consistency of the Master Development Plan with the NBR-PC Development Plan and Land Use and Development Regulations and any subdivision map(s) for the Project Site submitted for City review. Development plans shall include general layouts for circulation and access including public and private streets, private alleys, pedestrian paths, and public trails, and of the plan for development of residential, commercial, parks and visitor serving resort uses. The Director may require additional application materials to illustrate land use interface elements to buffer and separate new development and existing adjacent land uses or land uses within the Project.
- 2. A master grading plan describing the grading concept for the Project Site, including bluff/slope restoration, preliminary earthwork quantities for cut and fill, and contours and grades, generally at one-foot contour intervals for all graded areas of the Project Site including remedial grading for geotechnical purposes.
- 3. Master infrastructure plans describing the pattern and hierarchy of roadways to serve the development and a master infrastructure plan for domestic and fire water service, wastewater collection and treatment, and drainage and water quality management along with a description of any required off-site improvements or regional upgrades to existing systems. A description of the dry utilities service providers serving the Project Site shall also be included.
- 4. A habitat restoration plan for the Open Space Land Use Districts, describing habitat areas and methods or plans for habitat preservation and restoration.

IMPLEMENTATION AND ADMINISTRATION

- 5. A Fire and Life Safety Program describing the fuel management plan and fire protection program for the Project.
- 6. A Green and Sustainable Program describing minimum requirements for "green" building, minimum required green site design features, and compliance with the green and sustainable regulations contained within Appendix A of the NBR-PC.
- 7. A master landscape plan, describing the landscape concepts and planting plan for the Project to include, at a minimum:
 - a. Landscape zones and corresponding detailed plant palettes, with common and botanical names provided;
 - b. Streetscape plans and cross-sections;
 - c. Cross-sections depicting landscape treatment of fire management zones;
 - d. Conceptual plan for community walls and fences;
 - e. Conceptual plans for community entries; and
 - f. Conceptual plan for street signage and street light fixtures.
- 8. Architectural design guidelines illustrating the design, character, and scale for each land use to be developed within the Project Site to include the following:
 - a. Typical streetscape plotting, architectural character elevations exhibits for each residential housing type;
 - b. The architectural footprint, massing, and character for mixed-use/residential and visitorserving resort/residential uses; and
 - c. A master color palette for the Project.
- 9. A plan describing the implementation and administration of the MDP.

4.4.3 Review Authority and Application Review

The Planning Commission shall be the recommending body to the City Council, which shall serve as the review authority for the MDP application. If the MDP application is accompanied by an application for any other discretionary approval such as a subdivision map, Site Development Review, Use Permit, or Modification Permit, then the Planning Commission shall be the recommending body on all applications to the City Council, which shall serve as the review authority for all related discretionary permits.

In approving the MDP, the review authority shall make the findings set forth in NBR-PC Section 4.4.4, "Findings for Approval of a Master Development Plan." Proposed amendments to an approved MDP shall be reviewed and approved in the same manner as the initial application for MDP approval.

A Public hearing before the Planning Commission and City Council shall be required before the recommendation or action on an application for an MDP. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with NBMC Chapter 20.62, "Public Hearings."

4.4.4 Findings for Approval of a Master Development Plan

The following findings are required prior to approval or conditional approval of an application for a MDP:

- 1. The MDP is consistent with the NBR-PC Development Plan and NBR-PC Land Use and Development Regulations;
- 2. The MDP is compatible with the character of immediately adjacent land use and will not be detrimental to the orderly and harmonious development of the immediate surrounding area and of the City of Newport Beach;
- The MPD preserves and protects environmentally sensitive areas, wherever practicable. Structures or landform alterations are not located within environmentally sensitive areas, except as identified in a Habitat Restoration Plan approved as part of an MDP or an Environmental Impact Report certified for the Project;
- The MDP does not include development of structures in areas of potential geologic hazard unless specific conditions of approval are imposed which shall reduce adverse impacts to an acceptable level; and
- 5. The MDP includes site development plans and design guidelines that help to ensure that the development of the NBR- PC Development Plan will be accomplished in a cohesive manner and is adequately served by infrastructure, public facilities, and parks, while also preserving natural habitat areas within permanent open space.

IMPLEMENTATION AND ADMINISTRATION

4.4.5 Development Activities Permitted Pursuant to Master Development Plan Approval

The following development activities are permitted pursuant to City approval of the MDP for the Project Site, subject to an approved tentative subdivision map and approval of all required permits from local, State (including Coastal Commission) and Federal agencies with permitting jurisdiction over the activity:

- 1. Remediation activities within all land use districts pursuant to a Final Remediation Action Plan approved by appropriate state and local agencies;
- 2. Rough grading of land use development areas within all land use districts, including bluff/slope restoration and remedial grading to address geotechnical and soils issues, as depicted on approved subdivision map(s) and within the Master Development Plan;
- Construction of all public roadways, utilities, and backbone drainage and infrastructure improvements to serve all land use districts and as depicted on an approved tentative subdivision map(s) and within the Master Development Plan;
- 4. Limited clearing and grading within the OS District required for restoration of permanent open space areas and creation of habitat mitigation areas for future restoration, remediation of arroyo drainage courses and other eroded areas, and water treatment areas associated with approved water quality management plans, and for selective bluff/slope restoration and mitigation, all consistent with the Habitat Restoration Plan included as part of the MDP;
- 5. Implementation of the Habitat Restoration Plan within the OS District included as part of the MDP to implement project design features and mitigate for impacts of the approved subdivision map(s) and the Master Development Plan; and
- 6. Consolidation of oil production facilities into the OF District which are activities regulated by DOGGR.

4.4.6 Requirement for Site Development Review

The following development activities are permitted pursuant to approval of the MDP for the Project Site subject to recordation of a final subdivision map, City approval of Site Development Review, as described in Section 4.5, "Site Development Review," of the NBR-PC, , and approval of all required permits from local, State (including Coastal Commission), and Federal agencies:

 Development of land uses within the Residential Districts, Visitor Serving Resort and Residential District, Mixed Use and Residential District, and Park and Recreation District.

4.5 Site Development Review

4.5.1 Purpose and Intent

The purpose of Site Development Review is to provide a procedure for the review of land use and design of specific development projects prior to issuance of construction level permits and to ensure consistency of development projects with the NBR-PC and the approved MDP.

4.5.2 Applicability

- 1. Site Development Review approval is required prior to the issuance of a Building or Grading Permit for any development activity within the Project Site, as described in Section 4.4.6, "Requirement for Site Development Review," with the following exceptions:
 - a. Structures subject to the issuance of a Zoning Clearance pursuant to Section 4.14, "Zoning Clearances," of the NBR-PC.

4.5.3 Application Review

Applications for Site Development Review shall be submitted and reviewed in accordance with NBMC Chapter 20.52.080 "Site Development Reviews," Sections C through H. An application for Site Development Review shall also include the status of project implementation, describing the following:

For residential Site Development Review applications:

- 1. The number of units approved prior to the Site Development Review Application on all Tentative and recorded Final Subdivision Tract Maps within the respective Land Use District;
- 2. The number of units under construction or constructed within the respective Land Use District at the time of the Site Development Plan Review Application;
- 3. The total permitted units within the Land Use District pursuant to Exhibit 2-1 "Planned Community Development Plan," and Exhibit 2-2, "Planned Community Development Table," of the NBR-PC;
- 4. An accounting of any residential units requested for transfer from one Land Use District to another as part of the Site Development Review and any residential units previously approved for transfer from one Land use District to another; and
- 5. An accounting of all Inclusionary Housing Program affordable housing units approved and constructed or bonded for, or for which in-lieu fees have been paid or will be paid.

IMPLEMENTATION AND ADMINISTRATION

For commercial Site Development Review applications:

1. An accounting of approved and developed commercial square footage per land use district and an accounting of any commercial square footage requested for transfer from the MU/R land use district to another land use district.

For all Site Development Review applications:

Site Development Review applications shall identify all oil wells and vents to be abandoned as
part of a development of new uses and shall describe the appropriate setbacks and design
guidelines to be implemented pursuant to the provisions of the NBR-PC and NBR Remediation
Action Plan.

4.5.4 Review Authority

The Planning Commission shall be the review authority for Site Development Review applications. If the Site Development Review application is accompanied by an application for any other discretionary approval such as a Use Permit, or Modification Permit, then the Planning Commission shall be the review authority on all applications.

A Public hearing before the Planning Commission shall be required before action on an application for Site Development Review. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with NBMC Chapter 20.62, "Public Hearings."

4.6 Modification Permits

4.6.1 Purpose

The purpose of this Section is to provide relief from specified development standards of the NBR-PC when so doing is consistent with the purposes of this NBR-PC and does not negatively impact the community at large and/or the neighborhood of the specified development.

4.6.2 Applications, Allowable Modifications, and Application Review

Applications for a modification of any development standard as provided for in Chapter 3, "Land Use and Development Regulations," of the NBR-PC shall be submitted and reviewed pursuant to the provisions of NBMC Chapter 20.52.050, C through G "Modification Permits."

4.7 Subdivision Maps

Applications for subdivision maps, including tentative tract maps, parcel maps or other forms of land property subdivision recognized by the California Subdivision Map Act, shall be filed with and reviewed by the City pursuant to NBMC Title 19, Subdivisions (i.e., Subdivision Ordinance).

4.8 Coastal Development Permit

All development within the Project Site is subject to approval of a Coastal Development Permit(s) (CDPs) by the California Coastal Commission except that development defined as Categorically Exempt per Section 30610 of the Coastal Act or as defined as exempt by the Coastal Commission as part of an approved CDP, Local Coastal Program, for all or any portion of the Project Site. Existing and new oil operations are permitted within the Project Site pursuant to the South Coast Regional Coastal Zone Conservation Commission Claim for Exemption No. E-7-27-73-144. Existing oil operations may continue until consolidated or removed prior to development pursuant to the NBR-PC. All abandonment and re-abandonment of oil facilities, site remediation, removal of oil production facilities, and consolidation of oil production facilities within the OF District shall be conducted per the requirements of the appropriate State and local regulatory agencies. New oil operations are permitted within the OF Land Use District.

Upon City approval of a Master Development Plan and any other accompanying applications, including a subdivision map and pre-annexation and development agreement, the Developer may submit the City approved applications to the California Coastal Commission as an application for a Coastal Development Permit (CDP) which may also be referred to as a Master Coastal Development Permit (MCDP)¹.

Subsequent to issuance by the California Coastal Commission of a CDP, or MCDP, City approval of subsequent discretionary and ministerial permits shall be required prior to implementation of the Master Development Plan as provided for in this Chapter.

When any CDP(s) or MCDP is approved by the Coastal Commission that varies from the approval granted by the City for the same application, said CDP(s) or MCDP shall be re-submitted and reviewed by the City as a new application.

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All permits issued by the Coastal Commission are referred to as "Coastal Development Permits." As described herein, the Coastal Development Permit includes the MDP approved by the City and subsequently approved by the Coastal Commission is referred to as a "Master Coastal Development Permit."

IMPLEMENTATION AND ADMINISTRATION

4.9 Use Permits

4.9.1 Purpose

A Conditional Use Permit or Minor Use Permit provides a process for reviewing uses and associated operational characteristics that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

4.9.2 Review Authority and Application Review

Where the NBR-PC requires approval of a Minor Use Permit the review authority shall be the Zoning Administrator. Where the NBR-PC requires approval of a Conditional Use Permit the review authority shall be the Planning Commission.

Applications for Use Permits shall be filed by the applicant and reviewed by the City pursuant to NBMC Chapter 20.52.020, D through G, "Conditional Use Permits and Minor Use Permits."

4.10 Limited Term Permits

4.10.1 Purpose

The purpose of this Section is to provide a process to permit uses of limited duration, such as activities that are interim, non-permanent, and/or seasonal in nature, which would be compatible with adjacent and surrounding uses when conducted in compliance with this Section.

4.10.2 Applicability

A Limited Term Permit allows limited duration uses that might not meet the development or use standards of the applicable Land Use District, but which may otherwise be acceptable because of their temporary or limited nature. Limited duration uses shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid Limited Term Permit in compliance with this Section.

4.10.3 Uses Exempt from Requirements

The following uses are exempt from this section:

- Those uses listed as exempt in NBMC Chapter 20.52.040.C "Limited Term Permits Duration Uses;" and
- Model Home Complexes which are permitted pursuant to the requirements of NBR-PC Section 4.11, "Model Home Complex Permit."

4.10.4 Uses Allowed Subject to a Limited Term Permit

The following Limited Duration Uses are allowed subject to approval of a Limited Term Permit in compliance with this section:

- 1. Uses listed in Section 3.9.5, "Limited Duration Uses," of the NBR-PC; and
- 2. Uses listed in NBMC Chapter 20.52.040.D "Allowed Limited Duration Uses."

4.10.5 Application Filing, Processing, and Review

An application for a Limited Term Permit shall be submitted and reviewed in accordance with the provisions of NBMC Chapter 20.52.040, "Limited Term Permits," E through K.

IMPLEMENTATION AND ADMINISTRATION

4.11 Model Home Complex Permit

All model home complexes within Residential, Visitor-Serving Resort/Residential, and Mixed-Use/Residential Land Use Districts of the NBR-PC shall require approval of a Model Home Complex Permit as specified in this Section.

4.11.1 Intent

The intent of the Model Home Complex Permit is to implement certain standards as specified in the NBR-PC designed to safeguard the welfare of the community when a temporary real estate sales office is established in a portion of the Project Site.

4.11.2 Application

The application for a Model Home Complex Permit shall be made on forms and in a format as determined by the Director.

4.11.3 Review Authority and Application Review

The Director shall be the review authority for a Model Home Complex Permit and shall base his/her action on a determination of whether the project complies with the provisions of this Section of the NBR-PC. Action taken on an application for a Model Home Complex Permit is considered ministerial. A public hearing is not required prior to action on a Model Home Complex Permit application.

4.11.4 Effective Date, Time, Time Limits, and Extension

An application for a Model Home Complex Permit may be approved for a maximum time period of 36 months from the date of approval. Prior to the expiration of the 36-month period, the permit may be extended one additional 36-month period if the model home complex continues to comply with the requirements of this Section. Prior to issuance of certificates of use and occupancy for residential use and occupancy of the model homes, the temporary improvements shall be removed and the site shall be brought into full compliance with the terms and requirements of the original discretionary approval for the residential development project as a whole.

4.11.5 Structures and Facilities Permitted with a Model Home Complex Permit

Construction of the following structures and facilities are allowed as a part of a temporary model home complex:

- 1. Model homes in compliance with the regulations applicable to the properties that are being sold;
- 2. Garages, attached and detached, in compliance with the regulations applicable to the properties that are being sold. Garages attached to units being used as model homes may be used as temporary sales offices;
- 3. Temporary manufactured structures or commercial coaches for sales or leasing purposes;
- 4. Accessory buildings and structures in compliance with the regulations associated with properties being sold;
- 5. Recreational facilities that will be permanent facilities within the subdivision in compliance with the regulations applicable to the area in which properties are being sold;
- 6. Streets and driveways that will be a permanent part of the subdivision after the abandonment of the model home complex;
- 7. Temporary children's playgrounds;
- 8. Temporary and permanent fencing, walks, and structural amenities; and
- 9. Temporary vehicle parking and maneuvering areas to provide off-street parking as necessary for employees and guests.

4.12 Variances

4.12.1 Purpose

A Variance provides a process for City consideration of requests to waive or modify certain standards of the NBR-PC when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same Land Use District.

4.12.2 Applications and Review of Variance Requests

An application for a variance shall be submitted and reviewed in accordance with the provisions of NBMC Chapter 20.052.090, "Variances."

4.13 Community Master Sign Program

4.13.1 Approval of a Community Master Sign Program

Approval of a Community Master Sign Program to address community entries, residential project entries, residential neighborhood identification signs, public facility identification signs, way-finding signs, and any other signs identified as necessary by the Director for the successful signage of the Project, is required prior to issuance of the first Certificate of Occupancy, including the first model home complex.

4.13.2 Application and Review

An application for Community Master Sign Program shall be submitted by the developer on forms and of content as determined by the Director. The Planning Commission shall be the review authority for an application for a Community Master Sign Program. A Public hearing before the Planning Commission shall be required before action on an application for a Community Master Sign Program. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with NBMC Chapter 20.62, "Public Hearings."

4.14 Zoning Clearances

4.14.1 Purpose

Zoning Clearance is a process allowing ministerial approval of certain uses or structures that comply with the land use and development regulations established within Chapter 3 "Land Use and Development Regulations," of the NBR-PC for the respective land use.

4.14.2 Applicability

A Zoning Clearance shall be required for the following:

- 1. **Initiation of a Use** A Zoning Clearance shall be obtained before the initiation or commencement of any use of land not requiring the construction of a structure.
- 2. **Change of Use** Whenever a use is proposed to be changed, whether or not the new use involves a new lessee, operator, or owner, a Zoning Clearance shall be obtained.

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- 3. **Building Permit, Grading Permit, or other Construction Permit** A Zoning Clearance shall be obtained before the City issues a new or modified Building Permit, Grading Permit, or other construction-related permit required for the alteration, construction, modification, moving, or reconstruction of any structure including the following:
 - a. Accessory structures as defined by the NBR-PC;
 - b. Fences and/or walls not a part of an approved subdivision or Site Development Review;
 - c. The reconstruction or exterior remodeling of existing structures (including facade improvements); and
 - d. Any activities requiring a zoning clearance shall require verification that no abandoned oil wells or vents exist on the lot prior to the issuance of a permit. If an abandoned well or vent exists, proper setbacks and design guidelines shall be followed as outlined in the NBR Remediation Action Plan.

4.14.3 Applications and Review

Applications for a zoning clearance will be submitted and reviewed in accordance with the provisions of NBMC Chapter 20.52.100, "Zoning Clearances."

4.15 Application of Residential Densities

Maximum residential densities established for any Land Use District as set forth in NBR-PC Chapter 2, "Development Plan," shall apply to the Land Use District as a whole and not to any portion thereof.

4.16 Land Use Acreage Refinement, Transfer of Residential Dwelling Units, and Transfer of Commercial Area

Land use acreage refinements, transfer of planned residential dwelling units, and transfer of commercial square footage from that described in Exhibit 2-2, "Planned Community Development Table," may be approved within the NBR-PC in accordance with the provisions of Section 4.17, "Minor Modifications."

IMPLEMENTATION AND ADMINISTRATION

4.17 Minor Modifications

This Section describes activities that constitute minor modifications to the NBR-PC and establishes the procedure for approving minor modifications to the NBR-PC. The following are considered minor modifications to the NBR-PC, including Exhibit 2-1, "Planned Community Development Plan," and Exhibit 2-2, "Planned Community Development Table."

4.17.1 Land Use Acreage Refinements

A change in the Land Use District boundary lines as illustrated on Exhibit 2-1, "Planned Community Development Plan," and corresponding change in the Gross Acres for the respective Land Use District as described on Exhibit 2-2, "Planned Community Development Table," is permitted as part of the approval of either a Master Development Plan, Site Development Review, or subdivision map application submitted for the Project Site, provided the requested change does not result in:

- 1. An increase in gross acres or gross density of more than fifteen percent (15%) of the land use district for which the change is requested;
- A reduction in the total area allocated to the Lowland Open Space/Public Trails and Facilities District to less than 115 gross acres;
- 3. A reduction in the total area allocated to the Upland Open Space /Public Trails and Facilities District to less than 85 gross acres;
- 4. A reduction in the total area allocated to the CP District to less than 28 gross acres; and
- 5. The total area within the Project Site boundary does not exceed 401.1 gross acres.

4.17.2 Transfer of Residential Dwelling Units

A change in the planned number of residential dwelling units for any Land Use District as described on Exhibit 2-2, "Planned Community Development Table," resulting from a transfer of residential dwelling units from one Residential Land Use District to another, is permitted as part of the approval of either a Master Development Plan, Site Development Review, or subdivision map application submitted for the Project Site, provided:

- 1. The transfer does not result in an increase of more than fifteen percent (15%) in the total number of planned dwelling units described on Exhibit 2-2, "Planned Community Development Table," for the Land Use District receiving additional dwelling units;
- 2. The total number of dwelling units for the Project Site does not exceed 1,375;

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- 3. All dwelling units planned within the Land Use District can be developed pursuant to the applicable development regulations established in NBR-PC Chapter 3, "Land Use and Development Regulations," for the housing types planned for development;
- 4. A traffic analysis performed by the City's Traffic Engineer evaluating the total number of PM peak hour trips that would be generated by development allowed with and without the transfer concludes that there would not be any greater traffic impact generated as a result of the transfer than would be generated without the transfer. Trip generation rates shall be based on standard trip generation values in the current version of ITE's "Trip Generation," unless the Traffic Engineer determines that other rates are more valid for the uses involved in the transfer.
- 5. The total number of dwelling units within the MU/R Land Use District does not exceed 730; and
- 6. A corresponding subdivision map is approved by the City if the transfer results in a change to any previously approved subdivision map.

4.17.3 Transfer of Commercial Area from MU/R District to VSR/R District

In the event a resort inn is not developed in the VSR/R District, a portion of the total commercial area described in Exhibit 2-2, "Planned Community Development Table," may be transferred from the MU/R District to the VSR/R District for development of ancillary visitor-serving commercial uses such as restaurants, bars, visitor and tourist oriented retail shops, a fitness facility, a full service health spa, park and recreation facilities, and similar uses provided:

- 1. The total area of commercial uses developed within the Project Site does not exceed 75,000 square feet.
- 2. A traffic analysis performed by the City's Traffic Engineer evaluating the total number of PM peak hour trips that would be generated by development allowed with and without the transfer concludes that there would not be any greater traffic impact generated as a result of the transfer than would be generated without the transfer. Trip generation rates shall be based on standard trip generation values in the current version of ITE's "Trip Generation," unless the Traffic Engineer determines that other rates are more valid for the uses involved in the transfer. The visitor serving commercial uses can be developed pursuant to the applicable development regulations established in NBR-PC Chapter 3, "Land Use and Development Regulations." for commercial development within in the VSR/R land use district.

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4.17.4 Review Authority

The review authority for a minor modification to the NBR-PC shall be the same review authority as established in this Chapter with authority to approve or conditionally approve the development application being considered in conjunction with a request for a minor modification.

A minor modification to the NBR-Planned Community Development Plan and/or Planned Community Development Table shall be processed in accordance with the following procedures:

- An application to revise the Planned Community Development Plan and/or Planned Community Development Table shall be submitted as part of an application for approval of either a Master Development Plan for the Project Site or as part of an application for approval of a subdivision map or a Site Development Review;
- An application for a minor modification to revise the Planned Community Development Plan and/or Planned Community Development Table shall be accompanied by a revised Planned Community Development Table reflecting the proposed changes and any additional background and/or supporting information as determined by the Director; and
- 3. Unless determined otherwise by the City, the revised NBR-PC document shall serve as the reference document for any future revisions to Exhibit 2-1, "Planned Community Development Plan," and Exhibit 2-2, "Planned Community Development Table," as they may be approved from time to time. Such revisions shall be located in an appendix to the NBR-PC.

4.18 Amendments

All proposed changes to the NBR-PC other than those identified in Section 4.17, "Minor Modifications," of the NBR-PC, or as otherwise provided for within the NBR-PC, shall be considered amendments to the NBR-PC and shall be reviewed pursuant to the provisions of NBMC Chapter 20.56.050 "Planned Community District Application Procedures."

5.1 Definitions of Terms

The meaning and construction of words, phrases, titles, and terms used in the NBR-PC shall be the same as provided in the Newport Beach Municipal Code (NBMC), Chapter 20.70, except as otherwise provided in this Chapter.

Applicant – Newport Banning Ranch LLC, the property owner of Newport Banning Ranch.

Accessory Structures and Uses – Per NBMC, Chapter 20.70.020.

Amphitheater Small – Outdoor gathering space for lectures, forums, educational demonstrations and community based gatherings.

Arroyo – A small gully or channel of an ephemeral drainage, flanked by relatively steep sides consisting of unconsolidated sediments.

Arroyo, Southern – The Southern Arroyo is the arroyo within the Upland Open Space/ Public Trails and Facilities (UOS/PTF) District.

Arroyo, Northern – The Northern Arroyo is classified as the central arroyo within the Upland Open Space/Public Trails and Facilities (UOS/PTF) District.

Arroyo, Small – The Small Arroyo is classified as the northernmost arroyo within the Upland Open Space/Public Trails and Facilities (UOS/PTF) District. Sometimes referred to in technical reports as Drainage A.

Best Management Practice (BMP) – As defined by NBMC definition for BMP 20.70.020.

Backbone Roadways – Bluff Road, North Bluff Road, and 15th, 16th, and 17th Streets within Newport Banning Ranch.

Bluff – A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or body of water. A bluff may consist of a steep cliff face below and a more sloping upper bluff above.

Bluff Edge – The upper termination of a bluff. In cases where the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the presence of the steep bluff face, the bluff edge shall be defined as that point nearest the bluff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a step like feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Bluff edges typically

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retreat landward due to erosion, landslides, development of gullies, or by grading (cut). In areas where the bluff top or bluff face has been cut or notched by grading, the bluff edge shall be the landward most position of either the current of historic bluff edge. In areas where fill has been placed near or over the historic bluff edge, the original natural bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Where a site is bounded on at least one side by a canyon, the coastal bluff edge is the portion of the site that drains directly into the ocean. The portion of the site that drains first to the canyon (landward of the divide between the drainage to the ocean and the canyon) is not considered a coastal bluff.

Bluff Face – The portion of a bluff between the bluff edge and the toe of the bluff.

Bluff Toe – For bluffs subject to marine erosion, the point at which the landward extent of the mean high water line of the sea meets the face of the bluff. For bluffs not subject to marine erosion, the point where the downward slope of the bluff face first decreases to a grade of less than 33%.

California Coastal Commission – The state agency established by state law responsible for carrying out the provisions of the Coastal Act and for review of coastal permits on appeal from local agencies.

Care Uses – Per definitions for Day Care, Day Care General, and Residential Care Facilities in NBMC 20.70.020

City – The City of Newport Beach, California.

Coast Highway – See West Coast Highway.

Coastal Development Permit – A permit for any development within the coastal zone that is required pursuant to subdivision (a) of Section 30600.

Coastal Zone – The coastal area defined in Coastal Act §30103, over which the Coastal Commission exercises jurisdiction. The entire Project Site is within the Coastal Zone.

Condominium – A form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners. Includes a condominium project, community apartment project, or stock cooperative, as defined in California Civil Code Section 1351.

Dark Sky Lighting – Dark sky lighting refers to an exterior lighting concept which enforces measures to control or eliminate light pollution.

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Deferred Certification Area (DCA) – An area which has not been officially segmented for purposes of LCP preparation and where both the land use plan and implementation plan have been deferred to some future date in order to avoid delay in certifying the balance of the LCP.

Developer – The Applicant, Newport Banning Ranch LLC, a partnership composed of Aera Energy LLC, Brooks Street and Cherokee Investment Partners LLC, or another entity assigned by the applicant to develop any portion of the Project Site.

Development – Per NBMC 20.70.020 The placement or erection of any solid material or structure on land, in or under water; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes.

Development Area – Lands proposed for development pursuant to the requirements and procedures described in herein.

Director – The City's Community Development Director

Habitat Restoration Plan (HRP) – A comprehensive plan for the preservation and enhancement of ecological resources within the Project Site. The HRP also includes guidelines to ensure long-term habitat management and protection of these natural resources.

Lowland – The Lowland is the portion of the Project Site outside of (and topographically below) the Upland, composed primarily of oil operations and service roads intermixed with degraded wetland and wet meadow areas, largely below an elevation of 10 to 15 feet above Mean Sea Level, and containing approximately 150 acres.

Mean Sea Level (MSL) – The average (mean) height of the sea.

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Mitigation – As defined in §15370 of the State Guidelines for the California Environmental Quality Act, mitigation includes:

- 1. Avoiding the impact altogether by not taking a certain action or parts of an action.
- 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- 3. Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- 5. Compensating for the impact by replacing or providing substitute resources or environments.

Orange County Fire Authority (OCFA) – The Orange County Fire Authority is a regional fire service agency that serves 22 cities in Orange County and all unincorporated areas.

Parks and Recreation Facilities, Public – Those park and recreational facilities within the Project owned, operated and maintained by a public agency and which include but are not limited to lighted and unlighted sports fields, playgrounds, picnic areas and shelters, restrooms, community centers, gymnasiums, skate parks, lighted and unlighted sports courts, off-leash dog parks, tot lots, small amphitheaters, and parking lots.

Parks and Recreation Facilities, HOA Public Use – Those park and recreational facilities within the Project owned and maintained by a Homeowners Association but which are available for public use and which include but are not limited to paseos, trails, picnic areas, scenic overlooks, bike paths, nature interpretive centers, custodial facilities, gazebos, park benches, kiosks, tot lots, interpretive signage, visitor centers, and small amphitheaters.

Parks and Recreation Facilities, HOA Private Use – Those park and recreational facilities owned and maintained by a Homeowners Association for the exclusive use of Project residents and members of the Homeowners Association which include but are not limited to pools, spas, tot lots, picnic areas, informal play areas, gazebos, barbeque areas.

Project – All land uses and development encompassed within the approximately 401-acre Project Site and, in particular, all of the physical development and entitlement components that are identified in the Project EIR, potentially including off-site improvements.

Project Site – The approximately 401.1-acre Newport Banning Ranch area owned by the Landowner/Master Developer, Newport Banning Ranch LLC.

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Residence(s)/Residential

Cluster/Courtyard – Single Unit Dwellings which are organized generally in modules of two, four, or six homes which share driveway access to their individual attached garages. The homes may be developed either as a condominium project or planned unit development with private homeowner lots and common lots.

Compound – A combination of single family detached residential units on one lot containing 1 primary dwelling unit and 1 accessory residential unit for exclusive occupancy by one Single Housekeeping Unit. Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems. Accessory residential units may be either detached from the primary dwelling unit or attached to the primary dwelling unit.

Accessory Unit – A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling, that is a part of, and clearly incidental and secondary to, a residence; located on the same lot as a residence; and that does not change the character of the residential use.

Conventional – See NBMC, Chapter 20.70 "Dwelling, Single-Unit (Land Use) Detached Single-Unit Dwelling.

Dwelling Unit – See NBMC, Chapter 20.70 "Dwelling Unit (Land Use)"

Dwelling, Single Family Attached – See MNBC, Chapter 20.70 "Dwelling, Single-Unit (Land Use)."

Dwelling, Single Family Detached – See NBMC, Chapter 20.70 "Dwelling, Single-Unit (Land Use)."

Dwelling, Single Family Multi-Unit – See NBMC, Chapter 20.70 "Dwelling, multi-unit (Land Use)."

Live/Work – A residence is located to the rear of, or on top of, an artist's or professional studio, commercial space, or office front and located only within commercial buildings or vertically integrated mixed use buildings, and which are subject to specific regulations.

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Rowhouse/Townhome – See NBMC Chapter 20.70 "Dwelling, Single-Unit (Land Use) Attached Single-Unit Dwelling.

Side-Yard – Homes which incorporate a "zero lot line" on one side yard. The opposite side yard is used as a private open space/courtyard add reciprocal use and maintenance easement.

Triplex/Carriage – A Triplex with Carriage Unit is defined as three condominium homes or apartments served by alley-loaded garages. The triplex is composed of two freestanding cottages at the front of the lot which directly face the street and a third "carriage" unit located above the garages at the rear of the lot. The two cottages are typically detached from one another and their garages. Patios and loggia between the cottages and garages provide residents with privacy and usable open space, on a condominium lot.

Stacked Flat – A residential condominium, apartment, or other type of dwelling unit located entirely on one floor in a multi-story building, as distinguished from a dwelling unit in which living areas are located on separate floors connected by a stairway or elevator. Single-level units, stacked on top of each other in multi-story buildings on a condominium lot.

Villa – See NBMC, Chapter 20.70 "Dwelling, Single-Unit (Land Use) Attached Single Unit Dwelling.

Z-Lot – Z lots have an interlocking pattern of (typically) side property lines, in contrast to conventional rectilinear lots that have straight side property lines. Z lots within a neighborhood typically range in size and shape depending on how they interlock, and this variation can be used to create a more usable patios and a visually more interesting street scene. Z lot homes can be conveyed as condominiums or fee-simple ownership lots, often with reciprocal use easements to provide residents with more private and usable yard/patio areas.

Resorts, Inns, Hotels and Accessory Uses – See NBMC Chapter 20.70 Visitor Accommodations (Land Use), "Hotel."

Day Spa – Establishments that specialize in the full complement of body care including, but not limited to, body wraps, facials, pedicures, make-up, hairstyling, nutrition, exercise, water treatments and massage which is open primarily during normal daytime business hours and without provisions for overnight accommodations

Restoration – Activity in accordance with an approved HRP to improve generally destroyed or degraded habitat areas to a viably functioning level of biological productivity and diversity.

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Retail sales and service – Retail establishments, completely enclosed within structures, engaged in selling goods or merchandise or providing services to the general public. Examples of these establishments include:

- antiques
- appliances
- artists' supplies
- automotive parts and accessories
- bakeries
- barbershop/beauty salon
- bicycle sales and rentals
- books
- cameras and photographic supplies and processing
- carpeting and floor covering
- clothing and accessories
- convenience market
- drug and discount stores
- dry cleaning and laundry services
- electronic equipment
- fabrics and sewing supplies
- florists and houseplant stores (indoor sales only)
- gift shops
- grocery store
- handcrafted items
- hardware
- hobby materials
- jewelry
- kitchen utensils
- laundromat
- locksmiths
- luggage and leather goods
- medical supplies and equipment
- musical instruments, parts and accessories
- newsstands
- office supplies
- orthopedic supplies
- paint and wallpaper

- pharmacies
- religious goods
- repair shops, household and "fix-it"
- secondhand clothing sales
- shoe stores
- small wares
- specialty food and beverage
- specialty shops
- sporting goods and equipment
- stationery
- supermarket
- tobacco
- toys and games
- travel services
- Manufacturing, processing, treatment, and packaging of goods incidental to and operated in conjunction with a retail business on premises

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State – The State of California.

Top of Edge of Bluff – The upper termination of the bluff edge, see definition for Bluff Edge. In cases where localized erosion has created incised gullies or ravines and repairs are proposed, the top of edge of bluff will be defined as the continuation of the upper termination of the bluff edge line on either side of the localized erosion.

Upland – The Upland refers to areas in the Project Site outside the Lowland, located generally above 10- to 15-feet above Mean Sea Level and containing approximately 250 acres.

U.S. Army Corps of Engineers (ACOE) – The Federal agency that reviews navigation aspects of development projects, conducts design studies, and issues dredge and fill permits under the Clean Water Act, and water construction permits under the Rivers and Harbors Act of 1899.

View Fence – A fence constructed partially or entirely with glass or similar transparent material intended to provide an unobstructed eye-level view, including alternative materials like tubular steel.

Visitor-Serving Facilities – Facilities that fulfill the Coastal Act purpose of providing public access, recreation, and overnight accommodations within the Coastal Zone.

Visitor-Serving Retail – Retail establishments engaged in selling goods or merchandise to tourists and visitors.

West Coast Highway – State Highway 1 within the City of Newport Beach, also called Coast Highway and Pacific Coast Highway.

Zoning Administrator – City of Newport Beach Zoning Administrator.

5.2 Definitions of Acronyms

Α		
В	BP	Bluff Park District
С	Caltrans CARB CDP CP CSDOC CUP	California Department of Transportation California Air Resources Board Coastal Development Permit Community Park District County Sanitation District of Orange County Conditional Use Permit
D	DOGGR DU/Ac	(California) Division of Oil, Gas and Geothermal Resources dwelling units per acre
E	EIR	Environmental Impact Report
F	FiOS	Fiber-optic Services
G	GIS	Geographic Information System
Н	НОА	Homeowners Association
I	IP	Interpretive Parks District
J		
K		
L	LEED-ND	Leadership in Energy and Environmental Design – Neighborhood
	LOS LOS/PTF	Developments level of service (measure of traffic congestion) Lowland Open Space/Public Trails and Facilities
M	MCDP MDP MU/R MUP	Master Coastal Development Permit Master Development Plan Mixed-Use/Residential District Mixed Use Permit

PLANNED COMMUNITY DEVELOPMENT PLAN

N	NBMC NBR NBR-PCDP NMUS	Newport Beach Municipal Code Newport Banning Ranch NBR Planned Community Development Plan Newport Mesa School District
	OF OS(RV)	Oil Facilities District Open Space (Residential Village) District
P	PCDP	Planned Community Development Plan
Q		
R	RL RL/M RM	Low Density Residential District Low-Medium Density Residential District Medium Density Residential District
S	SOQ	Sphere of Influence
T		
U	UOS/PTF USGBC	Upland Open Space/Public Trails and Facilities District U.S. Green Building Council
V	VOCs VSR/R	volatile organic compounds Visitor-Serving Resort/Residential
W		
X		
Y		
Z		

PLANNING COMMISSION AGENDA

CITY OF NEWPORT BEACH
COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
Thursday, February 9, 2012
Regular Meeting - 6:30 p.m.

MICHAEL TOERGE Chair

BRADLEY HILLGREN Vice Chair FRED AMERI Secretary

KORY KRAMER
JAY MYERS
LARRY TUCKER

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

BRENDA WISNESKI, Deputy Community

Development Director

LEONIE MULVIHILL, Assistant City Attorney TONY BRINE, City Traffic Engineer

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. Staff reports or other written documentation have been prepared for each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200. The agendas, minutes, and staff reports are also available on the City's web site at: http://www.newportbeachca.gov.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

NEWPORT BEACH PLANNING COMMISSION AGENDA Council Chambers – 3300 Newport Boulevard Thursday, February 9, 2012 REGULAR MEETING

6:30 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.

E. REQUEST FOR CONTINUANCES

F. CONSENT ITEMS

ITEM NO. 1 Minutes of January 19, 2012, Study Session

ACTION: Approve and file.

ITEM NO. 2 Minutes of January 19, 2012

ACTION: Approve and file.

G. PUBLIC HEARING ITEMS

ALL TESTIMONY GIVEN BEFORE THE PLANNING COMMISSION IS RECORDED. SPEAKERS MUST LIMIT REMARKS TO THREE (3) MINUTES ON ALL ITEMS. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Please print only your name on the pad that is provided at the podium.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours.

ITEM NO. 3 Weinberg Variance (PA2011-207)

138 Via Xanthe

SUMMARY: Variance application to allow the construction of a 818 square foot, second story addition to an

existing nonconforming residence. The addition would encroach 1 foot within both required 4

foot side yard setback areas.

CEQA

COMPLIANCE: The project is categorically exempt under Section 15301, of the California Environmental

Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). Additions to structures that are less than 50% of the existing building qualify provided there is no expansion of use. The proposed addition is approximately 33% of the existing residence and the residential density

remains unchanged.

ACTION: 1) Conduct a public hearing; and

2) Adopt Resolution No. approving Variance No. VA2011-010

ITEM NO. 4

Beach Coin Laundromat Amendments (PA2011-209) 200 30th Street

SUMMARY:

The property owner seeks to continue the nonconforming commercial use of the subject property by requesting the following amendments:

- 1) General Plan Amendment to change the land use designation from Two-Unit Residential (RT) to Visitor Serving Commercial (CV),
- 2) Coastal Land Use Plan Amendment to change the designation from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A), and
- 3) Zoning Code Amendment to change the zoning designation from Two-Unit Residential (R-2) to the Commercial Visitor-Serving (CV).

No change in land use or new development is proposed at this time.

CEQA COMPLIANCE:

The proposed amendments are exempt since they do not entail any significant alteration to the subject property and will bring the General Plan Land Use, Coastal Land Use, and Zoning District designations consistent with the present use of the subject property. The site is presently developed and no development is proposed at this time; therefore, the project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

ACTION:

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ recommending City Council approval of:
 - General Plan Amendment No. GP2011-010,
 - Local Coastal Plan Amendment No. LC2011-006, and
 - Code Amendment No. CA2011-013.

ITEM NO. 5

Alternative Setback Determination (PA2012-001) 1702 Park Avenue

SUMMARY:

The applicant is requesting an alternative setback determination for property located at 1702 Park Avenue to accommodate redevelopment of the site. The applicant is requesting that the following setbacks be established:

- Front (Along Park Avenue) 6 feet
- Sides 3 feet
- Rear (Opposite Park Avenue) 3 feet

CEQA COMPLIANCE:

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent (%), which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The Alternative Setback Determination does not constitute a major change which would require environmental review.

ACTION:

- 1) Conduct a public hearing; and
- 2) Approve Alternative Setback No. SA2012-001 to establish the following setbacks:
 - Front (Along Park Avenue) 6 feet
 - Sides 3 feet
 - Rear (Opposite Park Avenue) 5 feet

H. NEW BUSINESS

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Community Development Director's report.

ITEM NO. 7 Announcements on matters that Commission members would like placed on a future agenda

for discussion, action, or report.

ITEM NO. 8 Request for excused absences.

ADJOURNMENT

NEWPORT BEACH PLANNING COMMISSION MINUTES Council Chambers – 3300 Newport Boulevard Thursday, January 19, 2012 STUDY SESSION MEETING 4:30 p.m.

Commissioner Ameri led the assembly in the pledge of allegiance.

A. ROLL CALL

PRESENT: Ameri, Hillgren, Kramer, Myers, Toerge, and Tucker

Staff Present: Patrick Alford, Planning Manager; Brenda Wisneski, Deputy Community Development Director;

Leonie Mulvihill, Assistant City Attorney; and Tony Brine, City Traffic Engineer

Chair Toerge welcomed new Commissioner Larry Tucker and presented a brief background of his experience and qualifications.

Chair Toerge reported this is a study session, introduced the item and noted there will multiple hearings on this issue. He instructed the public to speak on the specific issues being considered and commented on the general format of the meeting.

B. CURRENT BUSINESS

ITEM NO. 1 Newport Banning Ranch: Discussion of Subdivision Design and Circulation

The Chair read title to the aforementioned item and called for a report from staff.

Patrick Alford, Planning Manager for the Community Development Planning Division reported that this is the first of several study sessions on the project and that this session will focus on the subdivision design and circulation aspects of the project. He listed planned subsequent study sessions and the corresponding subjects.

Mr. Alford reported that the General Plan specifies the site as Open Space/Residential Village, noting the primary use specified is open space. He addressed applicable policies and addressed implementation of the primary land use and actions taken to date relative to the site. He referenced past appraisal of the property, Measure M mitigation funding, exploring open space options, continuing funding opportunities and exploring ways of attaining the property as open space. He addressed alternative uses; including allowing mixed residential and commercial uses. He noted the policies and the potential development lay out of the site.

Mr. Alford addressed the all of the specific aspects for the project and presented the Master Plan of Streets and Highways from the Circulation Element of the General Plan, showing the proposed street systems proposed across the property. He presented the proposed Master Roadway Plan for the project as well. He highlighted the omission of the second connection to Coast Highway in the Master Roadway Plan, which is the subject of the General Plan Amendment. He noted the applicant will need to amend the Master Plan of Arterial Highways through the Orange County Transportation Authority. Mr. Alford addressed the roadway segments, two-lane segments, local streets and private allies.

Mr. Alford reported on the traffic calming features of the Master Development Plan including mid-block tapers, chokes and modified knuckles, all of which are subject to the approval of the City's Traffic Engineer. He presented off-site improvements, some of which would involve the acquisition of additional property and the cooperation of the owner of the "Road & Track" property and the Newport-Mesa Unified School District. Mr. Alford presented details of the subdivision design noting the two (2) applicable documents, the Tentative Tract Map and the Master Development Plan. He addressed the proposed lot configurations, which include conventional single-family, zero lot line, Z-lot, cluster single-family, and multi-family. He reported additional information will be provided at later study sessions.

He presented the configuration for the Resort Colony, parks, Central Community Park, and a pedestrian bridge across Coast Highway to the West Newport Park. He reported a number of public easements proposed, noted all

streets discussed so far will be public streets and the Bluff Top Parks will be maintained by Homeowner Associations, but available to the public.

Mr. Alford addressed other areas with public access, Master Plan of Trails and Coastal Access Plan, infrastructure, Waste Water Master Plan, and drainage plan.

Discussion followed regarding location of Parcel No 189, Bluff Top Park at North Family Village, locations of North and South Community Parks, areas designated for cluster-single-family-attached, review of designs against the Master Development Plan and the Planned Community Development Plan text, location of the Resort Colony and the Urban Colony areas.

Staff noted that the applicant will provide a presentation and many of the Commissioners' questions may be answered at that time.

Mr. Alford noted that the commercial portion is intended as a mixed-use development primarily to serve the residents. Additional details will be provided upon review of the land use segment at a later study session.

Ensuing discussion pertained to the process upon approval of the Tentative Map, applicable review by the Coastal Commission and other steps necessary beyond approval of the Planning Commission relative to single-family residences.

Discussion continued regarding consideration of the second roadway that is supposed to connect with Coast Highway and impacts to the overall circulation.

Mr. Alford addressed the segment of roadway that the applicant is proposing to delete and reported that there would be significant impacts to habitat and land forms and is probably not feasible. He added that it is not needed to serve the project, as staff has studied the impacts of removing that segment and there are no significant related impacts.

The Chair invited the applicant to address the Commission.

Marice White on behalf of Newport Banning Ranch provided information on the design elements and features. She provided a historical background of the site, addressed community outreach and refinement of the plan. Ms. White introduced and deferred to Les Card with LSA Associates for brief comments on circulation.

Mr. Card presented an illustration showing the overall circulation of the project, elimination of the specific roadway segment, the intent of the City's General Plan, as well as the OCTA Master Plan of Arterial Highways. He addressed all modes of transportation are accounted for and addressed the two-lane versus four-lane roadways and sidewalks. Mr. Card addressed traffic calming measures in order to control speed.

Ensuing discussion pertained to the designed speed for the Bluff Road.

Paul Edwards, representing FORMA, presented an overview of the design concepts of the villages and colonies incorporated into the project. He emphasized compatibility with surrounding neighborhoods and addressed setbacks from buffers and natural areas. In addition, he reported the villages and colonies are surrounded by Bluff Park, addressed walk-ability between villages and colonies and providing for a range of lifestyles. He addressed dark-sky lighting, sustainable designs, being consistent with a green-recognized sustainability program. In addition, he addressed the commercial areas related to the boutique resort.

Discussion followed regarding resort units and their operation. Mr. Edwards addressed both North and South Family Villages, frontages and noted that the commercial is integrated into the design of the buildings in a mixed-use form.

Ensuing discussion pertained to the possibility of all residential and no commercial rather than a mixed-use.

John Olivier with Fuscoe addressed water quality and stated the overall goal, improving conditions for the salt water marsh and sediment control.

Commissioner Ameri addressed four (4) major treatments to control water quality and inquired as to which will be used.

Mr. Olivier reported that the information is included in the Water Assessment Report, which includes an entire section on water quality. He noted that there is a hierarchy of treatments, but that unfortunately infiltration on the bluff is not advisable and that the major form to be used will be bio-retention.

Chair Toerge explained the format for public comments and invited those wishing to address the Commission on this item to do so.

C. PUBLIC COMMENTS

Steve Ray, Executive Director of the Banning Ranch Conservancy, commented on the importance of obtaining information regarding impacts and issues regarding the project, namely, little time allowed for discussion of impacts. He opined that the entire project will have a lot of impacts to sensitive habitats, neighborhoods and land form alteration. He asked regarding the possibility of having the ability to present, at future study sessions, the negative impacts of the project. He referenced one study session scheduled to study the EIR and opined that is not sufficient time since it is an extensive document. He suggested considering having several sessions to consider the project EIR. He offered to share information and cooperate with staff and the Commission.

Sheila Pfafflin, a resident of Costa Mesa, spoke in opposition to the entire project feeling that it is an unnecessary and unwise use of the land. She addressed the placement of a traffic signal at Coast Highway was unjustified, she also stated opposition to the connection of 17th and 19th Streets and opined that the City of Newport Beach should coordinate with the City of Costa Mesa on this matter.

Bruce Bartram, a resident of Newport Beach, spoke in opposition to the project especially the connection of 17th and 19th Streets. He addressed regulatory and permit power of the Coastal Commission regarding the project. He indicated that the Coastal Commission found that the proposed four-lane road would have significant environmental impacts to the environmental habitat of the area.

Debbie Koken, a resident of Costa Mesa, spoke in opposition to the project and felt the circulation plan would be harmful to the environmental habitat and needs to be revised in order to be acceptable.

Kim Farthing, resident of Costa Mesa, spoke in opposition to the development and inquired as to how the City can spend so much time and money on a project that has not been approved by the Coastal Commission. She expressed concerns regarding additional traffic and environmental impacts.

Dorothy Krause, a resident of Newport Beach, presented comments prepared by the City-appointed Environmental Affairs Committee in response to the Newport Banning Ranch EIR, including the number of planned residential units, obscuring ocean views, visual impacts by high buildings, increased traffic on Bluff Road, setbacks from Bluff Road, and increased noise levels.

Ron Frankiewicz, a resident of Costa Mesa, spoke in opposition to the project and felt the area should be saved as open space for future generations and addressed impacts by increased traffic.

Mark Tabbert, a resident of Newport Beach, spoke in opposition to the project and agreed with Mr. Steve Ray's comments.

Jim Mansfield, resident of Costa Mesa, re-iterated comments by the Coastal Commission regarding the project and the circulation plan. He referenced a Master Coastal Development permit that the City hoped to get from the Coastal Commission and noted that there is no process to give the City such a permit.

Suzanne Forst, a resident of Newport Beach, commended the Commission for starting the study with circulation noting that the traffic impacts are profound and will affect at least three cities and three freeways. She agreed with the need for additional time to review and consider the project's EIR. She addressed omissions in the EIR including human health impacts.

Terry Welsh, President of the Banning Ranch Conservancy, addressed the Commission regarding vernal pools and their relationship to the circulation plan for this project. He reported there are 54 vernal pools on the Banning Ranch Mesa and addressed the fairy shrimp as an endangered species. He referenced a DVD of the area. He suggested a smaller development that does not involve development on the vernal pool areas and that is consistent with the Coastal Act.

The Chair thanked the public for their comments and noted future study sessions and public hearing will be held on this project.

D. ADJOURNMENT – The meeting was adjourned at 6:00 p.m.



NEWPORT BEACH PLANNING COMMISSION MINUTES

Council Chambers – 3300 Newport Boulevard Thursday, January 19, 2012 REGULAR MEETING 6:30 p.m.

- A. CALL TO ORDER The meeting was called to order at 6:30 p.m.
- B. PLEDGE OF ALLEGIANCE Led by Commissioner Kramer
- C. ROLL CALL

PRESENT: Ameri, Hillgren, Kramer, Myers, Toerge, and Tucker

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community

Development Director; Leonie Mulvihill, Assistant City Attorney; and Tone Brine, City Traffic

Engineer

D. WELCOME OF NEW PLANNING COMMISSIONER LARRY TUCKER

Chair Toerge welcomed new Planning Commissioner Larry Tucker and briefly listed his background and qualifications.

E. RECOGNITION OF FORMER PLANNING COMMISSIONER ROBERT C. HAWKINS' SERVICE

Chair Toerge acknowledged former Planning Commissioner Robert Hawkins, expressed his appreciation of his service to the City, and Staff presented him with a plaque.

F. PUBLIC COMMENTS

Chair Toerge invited comments from those in the audience who wished to address the Commission on other than Agenda items.

W.R. Dildine noted he resides within the Balboa Village Business Improvement District and referenced the General Plan opining that it is misleading. Specifically, he mentioned the Post Office is listed as a public facility which it is not. He addressed abatement extensions, noted the telephone company is shown as residential and listed other errors within the Plan. He opined the entire document needs to be reviewed and corrected.

G. REQUEST FOR CONTINUANCES – None.

H. CONSENT ITEMS

ITEM NO. 1 Minutes of December 8, 2011

Motion made by Vice Chair Hillgren and seconded by Secretary Ameri, and carried (5 - 0), with Commissioner Tucker abstaining, to approve the minutes of December 8, 2011, as corrected.

AYES: Ameri, Hillgren, Kramer, Myers, and Toerge

NOES: None.
ABSENT(EXCUSED): None.
ABSTENTION: Tucker

I. PUBLIC HEARING ITEMS

ITEM NO. 2 SCAP III, LLC Property Amendment (PA2011-196) 514 E. Ocean Front (aka 101-107 Palm Street)

The Chair read title to the aforementioned item, opened the public hearing and called for a report from staff.

Associate Planner Jaime Murillo presented details of the report addressing location, surrounding land uses, existing conditions, non-conforming commercial uses due to General Plan update, and change in zoning. It was noted the property owner has no plans in redeveloping the property for residential use and wishes to maintain the existing mixed-use building. He presented recommendations and offered to respond to questions from the Commission.

Interested parties were invited to address the Commission on this item.

Chair Toerge opened the public hearing.

Terry Jones, Attorney for the property owner, emphasized that her client merely wants to maintain the same use that was approved when the building was permitted in 1948. He plans no changes and wants to continue business as usual and has an interest in the residential portion of his property as he would not like his tenants disturbed by noise.

W.R. Dildine spoke in support of the item.

No one else wished to address the Commission on this item and Chair Toerge closed the public hearing.

Motion made by Vice Chair Hillgren and seconded by Secretary Ameri, and carried (6 - 0) to adopt a resolution recommending the City Council approves General Plan Amendment No. GP2011-009; approve Local Coastal Plan Amendment No. LC2011-005; and approve Code Amendment No. CA2011-012.

AYES: Ameri, Hillgren, Kramer, Myers, Toerge, and Tucker

NOES: None. ABSENT(EXCUSED): None. ABSTENTION: None.

ITEM NO. 3 Flyn' Fish Oyster Bar & Grill (PA2011-199)

2304 W. Ocean Front

The Chair read title to the aforementioned item, opened the public hearing and called for a report from staff.

Associate Planner Jaime Murillo presented details of the report noting it is a request for a conditional use permit to change the seating configuration of an existing eating and drinking establishment as well as expanding the hours of operation. He addressed location, existing conditions and parking. Mr. Murillo presented a brief background on the restaurant, floor plan, proposed construction of a new bar, and recommendations.

Interested parties were invited to address the Commission on this item.

Dennis Braeutigam, Architect, reported on the interior modifications.

Stephen Loomis, Restaurant Partner, affirmed reading and accepting the conditions of approval.

Joel Faucetta spoke in support of the project.

Gordon Barienbrock commented in support of the project.

No one else wished to address the Commission on this item and the public hearing was closed.

Commissioner Myers expressed concern over parking.

Mr. Murillo addressed the number of parking spaces for the adjacent hotel and clarified the restaurant maintains three designated parking spaces. He also noted that the hotel allowed the use of additional parking spaces on their property as available for restaurant valet parking.

Discussion followed regarding the possibility of obtaining additional parking and whether the City has ever received complaints regarding the restaurant parking. Mr. Murillo confirmed that there was no record of complaints.

Motion made by Vice Chair Hillgren and seconded by Commissioner Kramer, and carried (6 - 0) to adopt a resolution approving Conditional Use Permit No. UP2011-034.

AYES: Ameri, Hillgren, Kramer, Myers, Toerge, and Tucker

NOES: None. ABSENT(EXCUSED): None. ABSTENTION: None.

ITEM NO. 4 Voyer Variance (PA2011-212)

20442 Santa Ana Avenue

The Chair read title to the aforementioned item, opened the public hearing and called for a report from staff.

Deputy Community Development Director Brenda Wisneski presented details of the report addressing location, existing conditions, surrounding properties and details of the application. She presented a brief history of the property, addressed an unpermitted rear structure and actions needed to remedy non-compliant elements. Ms. Wisneski addressed the site plan, proposed modifications, zoning designations, size of the lot, setback limits and density. She presented project-specific conditions of approval.

Interested parties were invited to address the Commission on this item.

Mr. Voyer affirmed reading and acceptance of all conditions of approval.

In response to inquiries from Vice Chair Hillgren, Mr. Voyer reported finances are the reason for the requested change at this time.

No one else wished to address the Commission on this item and the public hearing was closed.

Motion made by Commissioner Kramer and seconded by Tucker, and carried (4 - 2) to adopt a resolution approving Variance No. VA2011-011.

AYES: Ameri, Kramer, Toerge, and Tucker

NOES: Myers and Hillgren

ABSENT(EXCUSED): None. ABSTENTION: None.

J. **NEW BUSINESS** – None.

K. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 Community Development Director's report.

Community Development Director Kimberly Brandt advised the Commission that at the City Council's last hearing, they approved the Lido Village Design Guidelines.

Ms. Brandt reported the City Council will proceed with filling the new vacancy currently in the Planning Commission.

ITEM NO. 6 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

In response to an inquiry from Vice Chair Hillgren, Ms. Brandt presented a status update on upcoming appeals to be brought before the City Council.

ITEM NO. 7 Request for excused absences.

Commissioner Kramer requested to be absent at the Planning Commission meeting of February 9, 2012.

ADJOURNMENT – The meeting was adjourned at 7:20 p.m.

CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

February 9, 2012 Meeting Agenda Item 3

SUBJECT: Weinberg Variance - (PA2011-207)

138 Via Xanthe

Variance No. VA2011-010

APPLICANT: Paul Weinberg

PLANNER: James Campbell, Principal Planner

(949) 644-3210, jcampbell@newportbeachca.gov

PROJECT SUMMARY

Variance application to allow the construction of a 818 square foot, second story addition to an existing nonconforming residence. The addition would encroach 1 foot within both required 4 foot side yard setback areas.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ___ approving Variance No. VA2011-010 (Attachment PC 1).

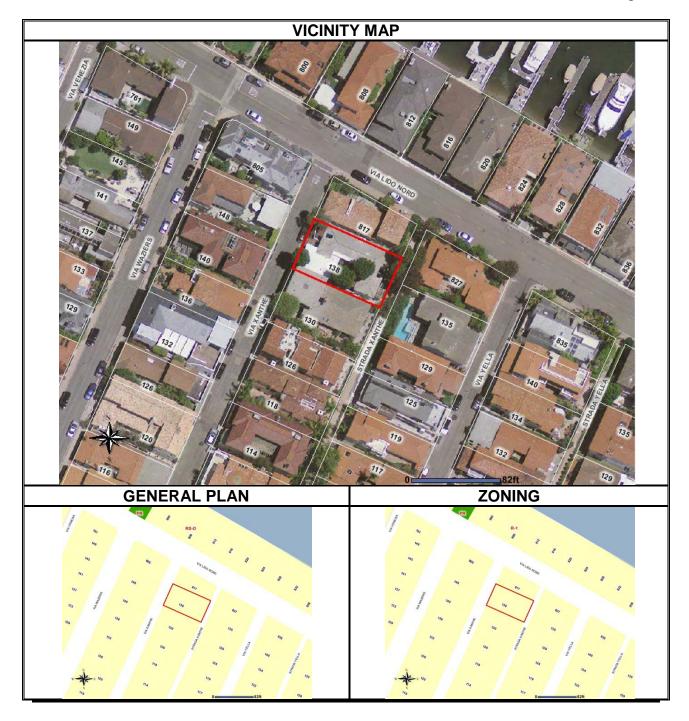
INTRODUCTION

Project Setting

The project site is a 4,400-square-foot lot (50' x 88') located at 138 Via Xanthe on Lido Isle. The project site is currently developed with a 2,523 square-foot, single-story dwelling including a 2-car garage. The existing residence was built in 1950 and has undergone several additions and modifications since. The abutting properties are developed with single family homes and the rear of the property faces a public walkway ("strata").

Project Description

The applicant proposes to construct an 818 square foot, second-story addition to the existing single-story residence. The addition would occupy roughly the rear 1/3 of the property with 1-foot encroachment being approximately 18 feet in length on the south and approximately 22 feet in length on the north. The applicant has provided a justification statement (Attachment PC 2) and plans (Attachment PC 3).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	RS-D (Single Unit Residential, Detached)	R-1 (Single Unit Residential)	Single Family
NORTH	RS-D (Single Unit Residential, Detached)	R-1 (Single Unit Residential)	Single Family
SOUTH	RS-D (Single Unit Residential, Detached)	R-1 (Single Unit Residential)	Single Family
EAST	RS-D (Single Unit Residential, Detached)	R-1 (Single Unit Residential)	Single Family
WEST	RS-D (Single Unit Residential, Detached)	R-1 (Single Unit Residential)	Single Family

DISCUSSION

General Plan

The Land Use Element of the General Plan designates the site RS-D (Single-Unit Residential Detached). The project is consistent with this classification.

Zoning Code

The property is zoned R-1 (Single-Unit Residential) and the project is consistent with the allowed uses of the R-1 zone. The existing residence provides 3-foot side yard setback areas and the minimum required setback is 4 feet based upon width of the lot. The structure was legally established, and thereby considered legal nonconforming. No other zoning nonconformities are known to exist based upon submitted plans, current zoning code and site inspection. Chapter 20.38 (Nonconforming Uses and Structures) limits additions to 50% of the existing gross floor area provided the addition conforms to applicable standards or a Variance has been approved.

The 818 square foot addition is approximately 39% of the existing floor area. The proposed addition meets all applicable zoning standards (front and rear setbacks, parking, floor area, open volume and building height) with the exception of the required 4-foot side setbacks.

Variance

A variance is a request to waive or modify certain standards when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. A variance can only be granted to maintain parity between the variance site and nearby properties in the same zoning district. To do otherwise would constitute a grant of special privileges that is inconsistent with the limitations upon other properties.

Section 20.52.090.F of the Zoning Code, requires the Planning Commission to make the following findings before approving a variance:

- A. That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.
- B. That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.

- C. That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.
- D. That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.
- E. That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.
- F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.

Staff concludes that there are facts associated with the subject property that support the required findings. The existing lot is developed with a residence with 3-foot side yards. Strict application of the setback standard would not allow the exterior wall of the proposed addition to be supported by the existing building wall and foundation directly below. From a structural standpoint, additional framing and foundation elements would be necessary to properly support the addition as proposed. Alternatively, the walls and foundation below would need to be completely reconstructed or replaced, which is a significant increase in the scope of construction. These considerations are special circumstances where strict compliance with the side setback standard significantly limits the ability of the property owner to create a two-story home thereby depriving a substantial property right afforded by other R-1 lots on Lido Isle.

The abutting properties are developed with a single and two-story residences and the proposed addition does not have windows that directly face the homes on either side. Therefore, privacy should not be compromised. The proposed addition is approximately 21 feet high at its highest point (at the rear setback line) and approximately 17 feet high at the lowest point. These heights are well below the 24-foot height limit and as a result, the design provides adequate access, air and solar access.

The applicant represents that the abutting neighbors and the Lido Isle Homeowners Association have reviewed and approved the proposed project. These endorsements are an indication of neighborhood compatibility.

The granting of the applicant's request is consistent with the intent of the General Plan and Zoning Code to provide a safe and livable community. Despite the setback encroachment, the overall design meets residential design criteria by avoiding long unarticulated walls, second floor set back from the street, and architectural treatment of elevations. Therefore, staff recommends that the Planning Commission approve Variance No VA2011-010 based on the discussion and facts above and the

recommended conditions of approval that have been incorporated into the attached Resolution (Attachment PC1).

Alternatives

The Planning Commission can modify or deny the project if necessary to avoid a perceived detriment to surrounding properties.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). Additions to structures that are less than 50% of the existing building qualify provided there is no expansion of use. The proposed addition is approximately 33% of the existing residence and the residential density remains unchanged.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

Hames Campbell, Principal Planner

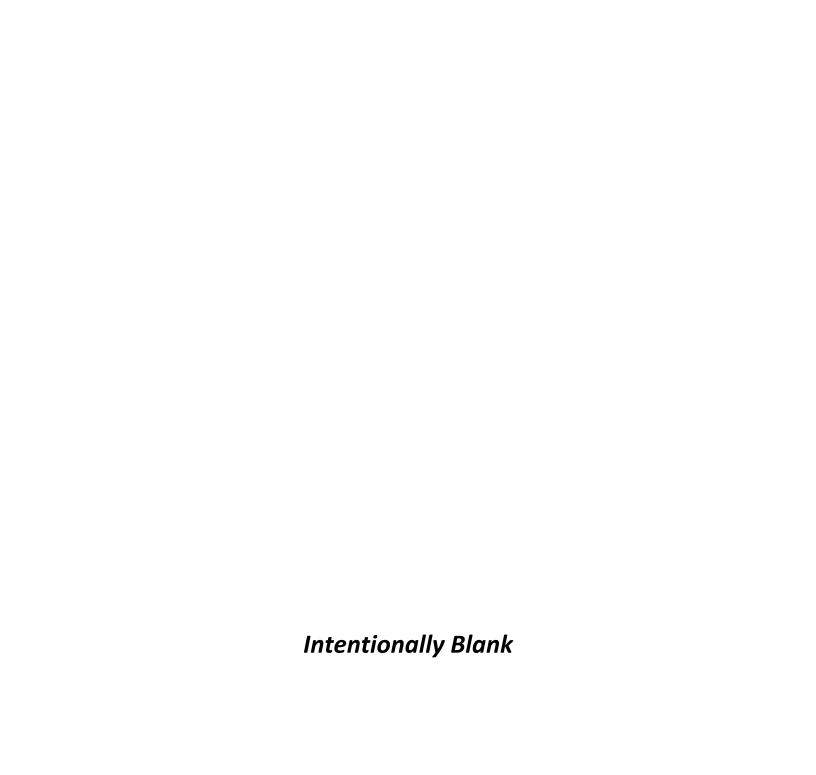
Brenda Wisneski AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution with Findings and Conditions

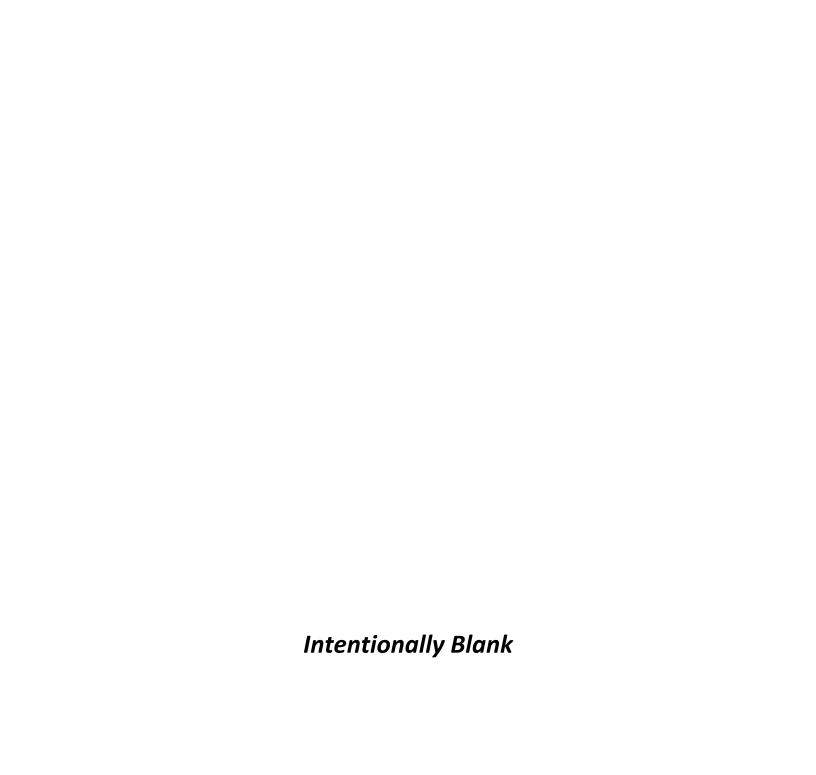
PC 2 Applicant's justification statement

PC 3 Project plans



Attachment PC-1

Draft Resolution with Findings and Conditions



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2011-010 TO ALLOW A SECOND STORY ADDITION TO AN EXISTING SINGLE FAMILY HOME TO ENCROACH 1 FOOT WITHIN BOTH REQUIRED 4 FOOT SIDE YARD SETBACKS AT 138 VIA XANTHE (PA2011-207)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Paul and Bailey Weinberg, with respect to the property located at 138 Via Xanthe, and legally described legally described as Lot 376 and the Northeasterly 15 feet of Lot 375 of Tract No. 907 requesting approval of a Variance No. VA2011-010.
- 2. The applicant proposes a variance to allow the construction of a second story addition to encroach 1 foot within both 4-foot side setbacks areas. The existing single-story residence is legal nonconforming as it is currently developed with a 3-foot side yard setback areas where the minimum required side setback is 4 feet.
- 3. The Land Use Element of the General Plan designates the site RS-D (Single-Unit Residential, Detached) and allows detached single family dwellings.
- 4. The Coastal Land Use Plan categorizes the subject property as RSD-C (Single Unit Residential Detached 10.0 19.9 DU/AC) and allows detached single family dwellings.
- 5. The property is zoned R-1 (Single Unit Residential), which provides for single-family residential uses.
- 6. A public hearing was held on February 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The exemption accommodates additions to existing structures that are less than 50% of the existing building provided there is no expansion of use. The proposed addition is approximately 33% of the existing residence and the residential density remains unchanged.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.

Facts in Support of Finding:

A-1. The existing lot is 50 feet in width and the current zoning code requires 4-foot side yard setback areas. The lot was permitted to be developed with a single family residence with 3-foot side yards in 1950, and the structure is considered legal, nonconforming.

Finding:

B. That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.

Facts in Support of Finding:

B-1. Strict application of the setback standard would not allow the exterior wall of the proposed addition to be supported by the existing building wall and foundation directly below. From a structural standpoint, additional framing and foundation elements would be necessary to properly support the addition as proposed. Alternatively, the walls and foundation below would need to be completely reconstructed or replaced, which is a significant departure from the desired scope of construction. Strict compliance with the side setback standard given the unique circumstances identified in the facts that support the Finding A above significantly limits the ability of the property owner to create a two-story home thereby depriving a substantial property right afforded by other R-1 lots on Lido Isle.

Finding:

C. That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding:

C-1. The project site is designated for single family residential use by the General Plan and the Zoning Ordinance. Two-story construction is allowed on any R-1 designated property by the Zoning Ordinance and approval of the Variance is necessary to preserve that right without the significant added construction it would take to comply with the setback standard.

Finding:

D. That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Facts in Support of Finding:

- D-1. The granting of the Variance would not constitute a special privilege inconsistent with the limitations upon other properties Zoned R-1 as it allows the property owner to maintain parity with the development of other lots in the vicinity.
- D-2. The granting of the Variance does not relieve the requirement to obtain required Building Permits and any corrective work deemed necessary by the Building Official.

Finding:

E. That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Facts in Support of Finding:

- E-1. The abutting properties are developed with a single and two-story residences and the proposed addition does not have windows that directly face the homes on either side, and therefore, privacy will not be compromised.
- E-2 The proposed addition is approximately 21 feet high at its highest point (at the rear setback line) and approximately 17 feet high at the lowest point. These heights are well below the 24-foot height limit and as a result, the design does not significantly affect air and solar access.
- E-3. The overall design, based upon the approved plans, meets residential design criteria provided within Section 20.48.180, Subsection B.2. by avoiding long unarticulated walls, providing second floor set back from the street, and providing architectural treatment of all elevations.

E-4 The approval of this Variance is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

Finding:

F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

- F-1. The principal purpose of setback standards is to provide adequate separation of buildings for light, access and ventilation. The existing building provides 3-foot setbacks to both side property lines and approval of the Variance will not diminish this setback area as the addition is on the second floor. Abutting residences also provide 3-foot side yard setback areas to the common lot lines, therefore, there will be 6 feet separating the project and abutting buildings. Adequate separation of the proposed addition from these adjoining properties will be maintained consistent with the intent of the Zoning Code.
- F-2. The subject property is designated by the Land Use Element of the General Plan RS-D (Single-Unit Residential, Detached) and allows detached single family dwellings. Approval of the Variance will not affect density or intensity of uses.
- F-3. The subject property is zoned R-1, which provides single-family residential uses and approval of the Variance will not affect density or intensity of uses.
- F-4. The subject property is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2011-010, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
- This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

Planning Commission Resolution No		
Page 5 of 7		

PASSED, APPROVED AND ADOPTED THIS 9TH DAY OF FEBRUARY, 2012.			
AYES:			
NOES:			
ABSTAIN:			
ABSENT:			
BY: Michael Toerge, Chairman			
BY: Fred Ameri, Secretary			

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

PLANNING

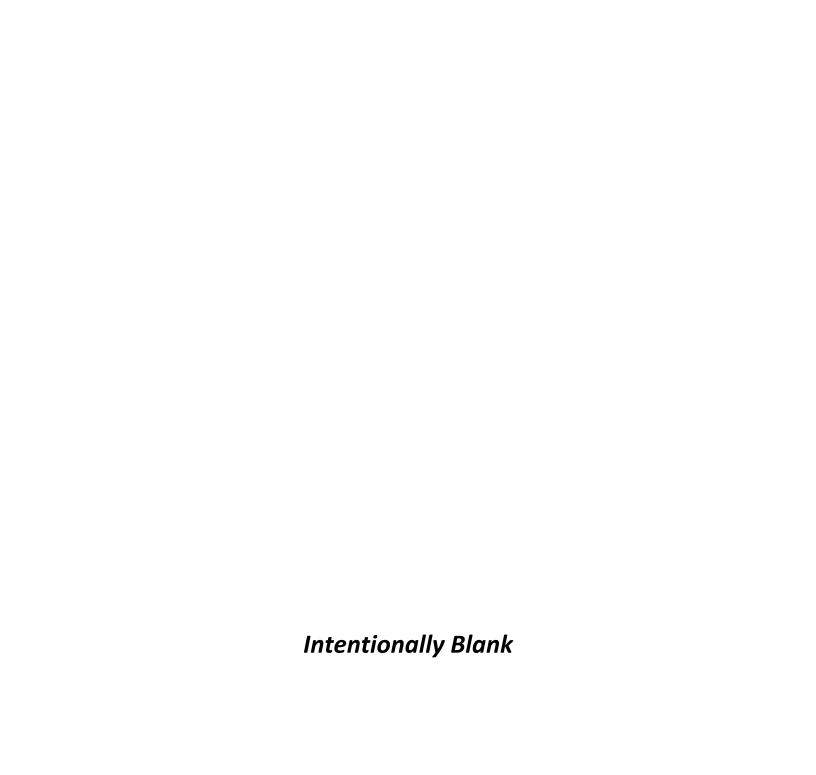
- 1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (Except as modified by applicable conditions of approval).
- 2. Variance No. VA2011-010 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
- 3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
- 5. This Variance may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
- 6. <u>Prior to the issuance of a building permit</u>, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
- 7. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Voyer Variance including, but not limited to, the Variance No. VA2011-010. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building

- 8. The property is located in a liquefaction area and a geotechnical investigation is required. The foundation may be designed in accordance with the Building Division's minimum mitigation design standards.
- 9. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

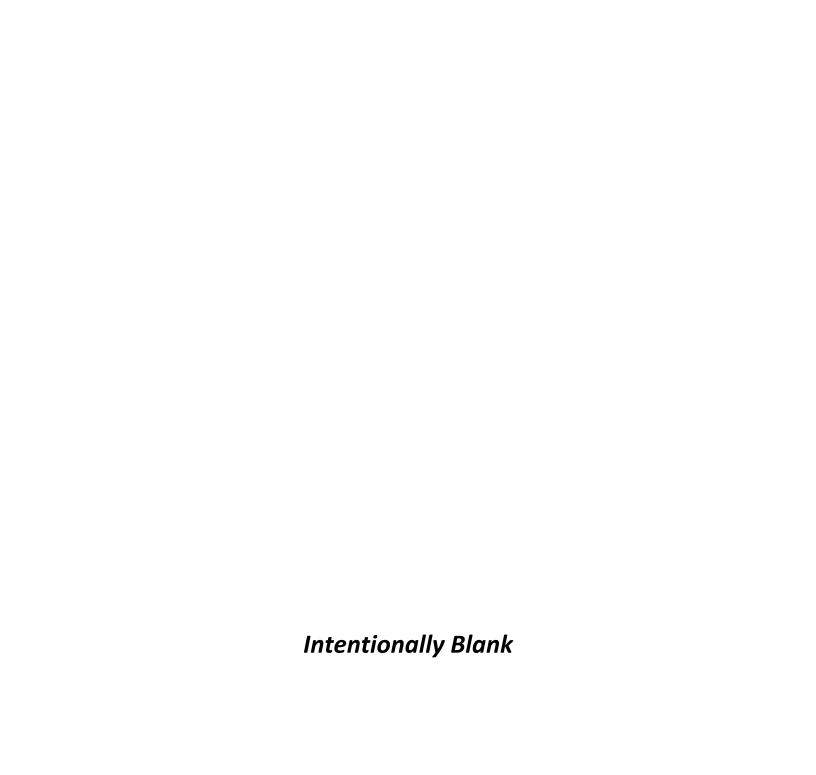
Public Works

- 10. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site requires an encroachment agreement. Planters, stone pavement within the driveway and the stone paved entry are considered non standard improvements.
- 11. No permanent structures shall be permitted within the existing 4-foot wide public utilities easement along Via Xanthe.
- 12. An encroachment permit is required for all work activities within the public right-of-way.
- 13. Install a sewer cleanout on the existing sewer lateral per Standard Drawing STD-406-l.
- 14. All on-site drainage shall comply with the latest City Water Quality requirements.
- 15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
- 16. All improvements shall be constructed as required per ordinance and the Public Works Department.



Attachment PC-2

Applicant's justification statement



Attachment A

3. Project Description and Justification:

The project is demolition and addition of a second floor to an existing single-story single-family residence comprising 2,048 square feet with an existing 2-car covered garage comprising 445 square feet.

The existing residence was constructed in 1994 and 1995 as a "remodel" of a much older residence that was in significant disrepair and suffering foundation and other structural infirmities.

I obtained permits for a comprehensive remodel of the property in 1994 and completed the process in 14 months, obtaining foundation, structural, plumbing, electrical and other ancillary permits for the work. The work was inspected XXX. The existing property had 3' side yard setbacks and, during the 1994 and 1995 time period, the City indicated that, as long as the footprint was not modified in any manner, the existing building envelope could be observed and rebuilt.

In October of 2010, my wife, Bailey Weinberg and I engaged Richard Okimoto, an AIA licensed architect to design and submit plans for a second story addition. He did so on December 20, 2010, including structural calculations, structural plans, a demolition plan and Title 24 and other related calculations per the City's requirements. That modification contemplated a new second floor of 2381 square feet with new project total of 4874 square feet. His plans indicated that the maximum floor area ratio to be classified as "categorically XXX" equaled 1.5 times the net lot area, or 3256 square feet times 1.5, equally 4884 square feet. (The lot is actually a lot and a half, and its dimensions are 50 feet in width by 88 feet in depth, or 0.1 acre or 4400 square feet. The existing front and rear setbacks have been adhered to, the core of this application for variance is an apparent error made by the architect in both the side yard setbacks and the applicability of the existing garage for the new second story.

On December 23, 2010, we received Residential Zoning Corrections reflecting, in essence, two primary zoning complaints. The first stated:

"29. ... 1. New structure cannot encroach into the required 4-foot side setbacks. I don't understand how the original structure was able to be built at 3-foot side setbacks because, according to the records I found, this home was built in 1950. At that time, homes built on lots that were wider than 40 feet had required 4-foot side setbacks."

Attachment A - Page 2

The Residential Zoning Corrections also contained the requirement to provide space for a third car in the garage in Item 31 on its Page 4.

We are therefore seeking relief from the Planning Commission in the form of a variance to be allowed to build the second floor with the 3-foot side yard setbacks and to leave the existing garage in place for a number of reasons. Newport Beach Municipal Code Section 20.91.035 requires that the Planning Commission make certain findings for variances, four in number. I'll approach them one at a time, and explain each one in the context of the surrounding circumstances, the special characteristics of our particular lot and historical data.

The first criterion is:

"That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification."

Probably the best place to start is the potential safety issue if the Code is strictly followed. In essence, complying with the Code would require us to "step inward" the second floor. This would, in essence, interrupt the wall and both the north and south elevations. We asked our structural engineer, Robert Onishi, to supply you with a letter of January 5, 2011 and sketches illustrating this. In that letter, he stated:

"With the proposed revision, the load path will immediately be disrupted at the second floor 'plane' due to the proposed twelve inch offset. Based on our preliminary study shown on Plate B, we have determined that additional framing (and foundation) elements will be required to accommodate the proposed offsets. Also, current Municipal Codes mandate amplification of seismic components (shear wall tie downs) when direct load paths are not maintained. We anticipate that these structural modifications will result in significant increased construction cost due to the added labor and materials."

A cursory review of Mr. Onishi's Plate A and Plate B show a great number of new or modified floor beams (see Plate B). They also show the required relocation of load bearing walls and bearing/shear walls (see Plate A).

The drawings in his letter overall make clear that if the load path is interrupted, the building just isn't going to be as stable. It is more than simply just a cost issue, the structural engineer has raised a safety issue; it is not going to be as safe a structure if the plane is interrupted. Perhaps more importantly, though, the 3-foot setback on the ground floor will remain in any event. This isn't an issue; the Planning Department accepts that the modification would involve only the second floor. Therefore not only aesthetically, but functionally, the reasonable use of the structure would be interrupted. The likelihood of water intrusion at the

Attachment A - Page 3

seam where the first and second floors are joined, the necessity to install specialized roofing material to prevent or at least hinder the water intrusion would clearly be a problem and a factor; additional waterproofing steps would be necessary and, because of the weakness, joint problems associated with bringing north and south walls in twelve inches from the existing structure would exist.

The alteration does not increase the structure's inconsistency with the regulations of the Zoning Code; the ground floor is and will remain at the three-foot side yard setback. Attached exhibits (Site Plan and North and South Elevations) from the architect show a minimal amount of footage is lost, under 200 square feet, leaving the second floor at three feet on both the north and the south setbacks. Additionally, the property owner has agreed to voluntarily pull in the west (front) setback and, in addition, to allow the Canary pine tree in the front yard to remain. Some of the square footage that the property owner would be allowed to retain will be offset by this additional voluntary setback. Please also note that, on the north property line, as the north elevation points out, the windows will be small and the sill height will be high to maintain privacy. No other fenestration or other openings in the building, save and except the existing frosted opaque glass window at the guest bath, exist. This maintains both sound and sight privacy for the northern neighbor, Marion Pickens. In the same manner, the southern neighbor, the Wades, will continue to enjoy more than one third of the property line having a 28-foot setback; the existing atrium will be preserved with the new construction. The footprint, as can be seen by the enclosed site plan, will preserve the atrium on both the first and second floor, allowing light, air and view to remain for the southern neighbor.

This lot size is clearly quite small; the neighbors on both the north and south of the subject lot enjoy second floor space and are not required to have a third-car garage. The applicant's scope of work is an addition, not demolition and new construction (scraping the4 lot).

The second finding is as follows:

"That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant."

Subdivision 2 can be analyzed in the context of its phrase "substantial property rights." Clearly, the right to live in and to a safer, more seismically resistant structure is a substantial property right. Additionally, the lack of likelihood of water intrusion and other use-related problems associated with modifying the structure don't occur if the applicant is allowed to maintain the three-foot setback for the second floor. The property right can also be analyzed in the context of the additional cost, which clearly would be substantial and for no real net reason. The neighbors would not really benefit from it; the southern neighbor enjoys, in essence, a 28-foot setback for over one third of the lot line and the northern neighbor already

Attachment A - Page 4

has the three-foot setback and has, in essence, a blank wall on that side of her residence anyway.

Subsection 3 of the findings state:

"That the granting of the application is consistent with the purposes of this code and will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district."

As to Subsection 3, no special privilege is being granted here; the age of this property and the existence of the adjacent neighbor's two-story structure with the same setbacks negate the question of a special privilege inconsistent with the limitations on other properties in the vicinity. This argument applies equally to the southern neighbors as well; they will now enjoy, with the new design, a 28-foot side yard setback on over one third of the lot and no privacy infringement will take place as there will be no windows or fenestration on the south side. There is no conceivable view block in any event; the applicant is building to the Lido Isle Community Association 24-foot height limit, five feet lower than the City's height limitations, voluntarily. Nearly all of the homes on Via Xanthe enjoy a two-story height; applicant is not seeking anything larger than or different from what the neighbors have, save and except the maintenance of the three-foot setbacks.

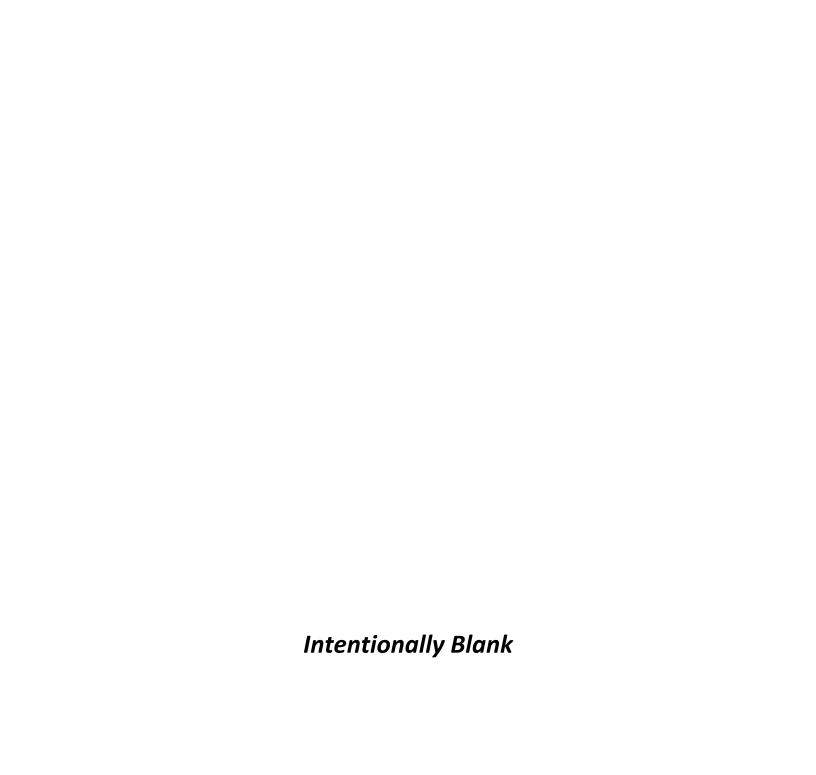
Subsection 4 requires:

"That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood."

Finally, as to Subsection 4, a very forceful argument can be made that, if the application is not granted there is the very good likelihood that construction of the second floor with the weaker structural system will materially affect adversely the health or safety of persons residing in or working in the neighborhood, particularly if there is a seismic event. There just is no way to make the building safer if it has to be "stepped back" an additional foot for the second floor than if all four of the planes can move as one. Further, there will be no injury to anyone else's property or improvements and the public welfare will not be injured because the side yards are not visible to the public and there will be no additional burden or impact to either of the neighbors by the intended use. In point of fact, by voluntarily not putting any windows on the south elevation, the southern neighbors, the Wades, will get the benefit of no loss of privacy and one third of their lot line having a 28-foot setback.

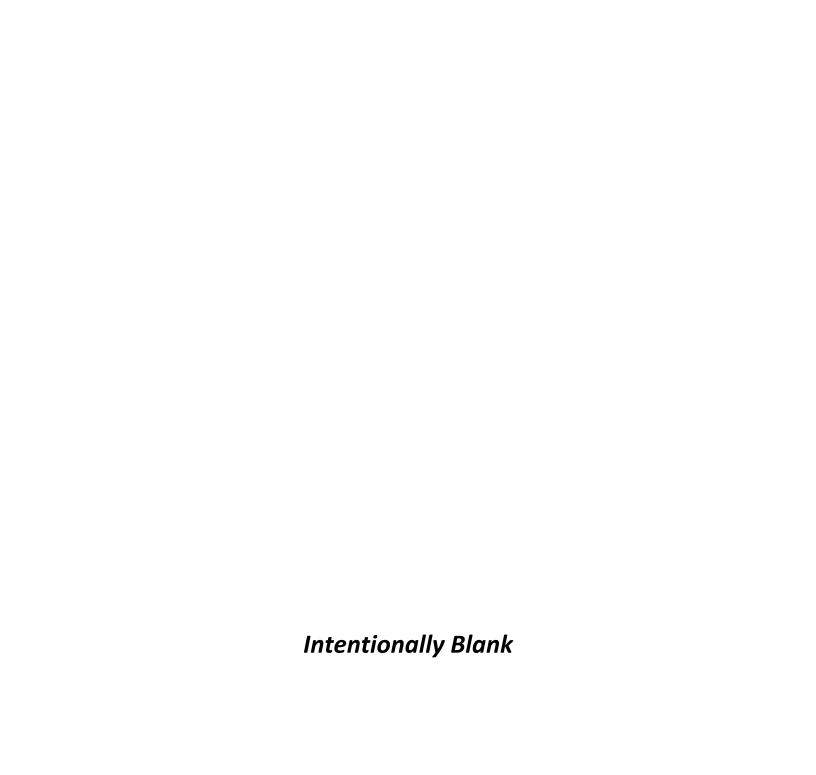
Attachment A - Page 5

Please consider all of these factors in your review and discussion of the applicant's request. My wife and I thank you for your time and consideration.



Attachment PC-3

Project plans



WEINBERG RESIDENCE

138 VIA XANTHE, NEWPORT BEACH, CA 92663

- THESE PLANS SHALL COMPLY WITH THE 2007 CALIFORNIA CODES. CBC, CPC, CMC, CEC AND ALL APPLICABLE LOCAL CODES AND ORDINANCES.
- PROJECT SHALL COMPLY WITH NPDES, SUSMP, AND BMP REQUIREMENTS
- ALL WORK SHALL BE IN ACCORDANCE WITH THE CODES OF THE GOVERNING AUTHORITY AND SPECIAL REQUIREMENTS OF THE
- ALL WORKMANSHIP AND MATERIALS SHALL COMPLY WITH THE LATEST EDITION OF THE CALIFORNIA BUILDING CODES, APLICABLE CBC STANDARDS AND / OR ALL ADDITIONAL REQUIREMENTS OF THE CITY OF LAGUNA BEACH.
- PROJECT MUST COMPLY WITH LATEST STATE TITLE 24 ENERGY **STANDARDS**
- EXTERIOR WALLS SHALL BE APPROVED NONCOMBUSTIBLE OR IGNITION RESISTANT MATERIAL. HEAVY TIMBER, OR LOG WALL CONSTRUCTION OR SHALL PROVIDE PROTECTION FROM THE INTRUSION OF FLAMES AND EMBERS IN ACCORDANCE WITH STANDARD SFM 12-7A-1 (704A.3.1)
- FIRE BLOCKS AT THE FOLLOWING LOCATIONS PER SECTION 2516 (F): IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS (INCLUDING FURRED SPACES) AT THE CEILING AND FLOOR LEVELS AND AT 10FT INTERVALS BOTH VERTICALLY AND HORIZONTALLY
- 7.2. AT ALL INTERCONNECTIONS BETWEEN CONCEALED VERTICAL AND HORIZONTAL SPACES SUCH AS OCCUR AT SOFFITS, DROPPED AND COVED CEILINGS.
- IN CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BOTTOM OF THE RUN AND BETWEEN STUDS ALONG WITH AND IN LINE WITH THE RUN OF THE STAIRS, IF THE WALLS UNDER THE STAIRS ARE UNFINISHED
- 7.4. IN OPENINGS AROUND VENTS, PIPES, DUCTS, CHIMNEYS, FIREPLACES AND SIMILAR OPENINGS WHICH AFFORD A PASSAGE FOR FIRE AT CEILING AND FLOOR LEVELS.
- 7.5. AT OPENINGS BETWEEN ATTIC SPACES AND CHIMNEY CHASES FOR **FACTORY BUILT CHIMNEYS**
- ARTIFICIAL LIGHT SHALL BE PROVIDED THAT IS ADEQUATE TO PROVIDE AN AVERAGE ILLUMINATION OF 10 FOOT- CANDLES (107 LUX) OVER THE AREA OF THE ROOM AT A HEIGHT OF 30 INCHES (762mm) ABOVE THE FLOOR LEVEL. 1205.3
- STAIRWAYS WITHIN DWELLING UNITS AND EXTERIOR STAIRWAY SERVING A DWELLING SHALL HAVE AN ILLUMINATION LEVEL ON TREAD RUNS OF NOT LESS THAN 1 FOOT-CANDLE (11LUX). 1205.4
- SMOKE DETECTORS:
- 10.1. HARD-WIRED SMOKED DETECTORS WITH A BATTERY BACKUP ARE REQUIRED ON THE CEILING OR WALL OUTSIDE OF EACH SEPERATE SLEEPING AREA IN THE IMMEDIATE VICINITY OF BEDROOMS. SHOW ALL LOCATIONS WITH A SYMBOL ON THE PLAN [907.2.10.1.2]
- 10.2. HARD-WIRED SMOKE DETECTORS WITH A BATTERY BACKUP ARE REQUIRED IN EACH ROOM USED FOR SLEEPING PURPOSES. SHOW ALL LOCATIONS WITH A SYMBOL ON THE PLAN [907.2.10.1.2]
- 10.3. HARD-WIRED SMOKE DETECTORS WITH A BATTERY BACKUP ARE REQUIRED IN EACH STORY WITHIN A DWELLING UNIT, INCLUDING BASEMENTS BUT NOT INCLUDING CRAWL SPACES AND UNINHABITABLE ATTICS. IN DWELLINGS OR DWELLING UNITS WITH SPLIT LEVELS AND WITHOUT AN INTERVENING DOOR BETWEEN THE ADJACENT LEVELS, A SMOKE ALARM INSTALLED ON THE UPPER LEVEL SHALL SUFFICE FOR THE ADJACENT LOWER LEVEL PROVIDED THAT THE LOWER LEVEL IS LESS THAT ONE FULL STORY BELOW THE UPPER LEVEL. SHOW ALL LOCATIONS WITH A SYMBOL ON THE PLAN [907.2.10.1.2]
- 10.4. WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED WITHIN AN INDIVIDUAL DWELLING UNIT, THE SMOKE ALARMS SHALL BE INTERCONNECTED IN SUCH A MANNER THAT THE ACTIVIATION OF ONE ALARM WILL ACTIVATE ALL OF THE ALARMS IN THE INDIVIDUAL UNIT. THE ALARM SHALL BE CLEARLY AUDIBLE IN ALL BEDROOMS OVER BACKGROUND NOISE LEVELS WITH ALL INTERVENING DOORS CLOSED. 907.2.10.3
- PRIOR TO ISSUANCE OF PERMIT OF ANY EXCAVATION A MEETING SHALL BE HELD AT THE SITE THAT WILL BE ATTENDED BY THE PROJECT ENGINEERING GEOLOGIST AND PROJECT ENGINEERING GEOLOGIST, PROJECT BUILDING INSPECTOR, GENERAL CONTRACTOR AND SHORING CONTRACTOR
- CONTACT DIG ALERT PRIOR TO ANY EXCAVATION CAL OSHA PERMIT SHALL BE OBTAINED FOR ALL EXCAVATIONS DEEPER THAN 5'-0". A COPY OF THE PERMIT SHALL BE PROVIDED TO
- THE CITY PRIOR TO ISSUANCE OF A BUILDING PERMIT. 13.1. IF SHORING IS REQUIRED, OBTAIN SHORING PERMIT PRIOR TO ISSUANCE OF BUILDING PERMIT.
- 13.2. A BOND IN THE AMOUNT OF SHORING COST IS REQUIRED. 14. VERIFY ALL LOCATIONS OF EXISTING UTILITIES WITH SERVING UTILITY PRIOR TO COMMENCEMENT OF ANY WORK AND VERIFY LOCATION
- WITH DESIGNER 14.1. IF NECESSARY UNDERGROUND ALL UTILITY LINES TO THE NEAREST EXISTING UTILITY POLE.
- 15. A SEPERATE PERMIT IS REQUIRED FOR ALL RETAINING WALLS, GARDEN WALLS, POOLS, SPAS, FENCES, ENCROACHMENT INTO PUBLIC RIGHTS OF WAY (IE. DRIVEWAYS, SIDEWALKS ETC.)
- 16. FIRE SPRINKLER PERMIT TO BE DEFERED SUBMITTAL AND/OR FIRE DEPT. EXEMPTION.
- 17. ALL ROOF AND DECK DRAINS TO BE LOCATED WITHIN EXTERNAL WALLS AND TO BE CONNECTED DIRECTLY TO THE STREET BY AN UNDERGROUND NON-EROSIVE PIPE, PER SECTION 2905 (F).
- MAINTAIN A MINIMUM OF 1% POSITIVE DRAIN AWAY FROM THE STRUCTURE
- 19. THE LARGEST RISE OR RUN IN A FLIGHT OF STAIRS MAY NOT EXCEED THE SMALLEST BY MORE THAN 3/8".
- PROJECT SHALL COMPLY WITH NPDES, SUSMP AND BMP REQUIREMENTS.

- 21. ANY OMISSIONS AND CONFLICTS BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND /OR SPECIFICATONS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER BEFORE PROCEEDING WITH ANY OF THE WORK SO INVOLVED. ALL WORK IS TO BE CO-ORDINATED SO THAT THE CO-OPERATION BETWEEN ALL TRADES, WHERE REQUIRED, IS ACCOMPLISHED.
- CONTRACTOR TO VERIFY ALL CONDITIONS AND DIMENSIONS IN THE FIELD, REPORT ANY DISCREPENCIES TO DESIGNER PRIOR TO STARTING WORK AND CONTRACTOR SHALL MAKE AND ADD ALL CORRECTIONS NECESSARY DUE TO NEGLIGENT FIELD VERIFICATION AT HIS SOLE EXPENSE
- CONTRACTOR TO VERIFY SIZE OF ALL FRAMED OPENINGS UPON COMPLETION OF FRAMING AND PRIOR TO ORDERING.
- THE CONTRACTOR SHALL AT ALL TIMES KEEP THE PREMISES CLEAR OF THE ACCUMULATION OF WASTE MATERIALS OR RUBBISH CAUSED BY HIS EMPLOYEES OR WORK AND AT THE COMPLETION OF THE WORK, SHALL REMOVE ALL RUBBISH, DEBRIS EQUIPMENT AND SURPLUS MATERIALS FROM IN AND AROUND THE BUILDING AND LEAVE THE WORK "BROOM CLEAN".
- PROVIDE PEDESTRIAN PROTECTION
- PATCH AND REPAIR ALL SURFACES DISRUPTED OR DAMAGED DURING CONSTRUCTION TO EXACTLY MATCH EXISTING ADJACENT SURFACES.
- 27. OWNERS OF ADJACENT PROPERTIES THAT MUST UNDERPIN THEIR BUILDINGS DUE TO THE PROPOSED EXCAVATION SHALL BE NOTIFIED IN WRITING TEN DAYS PRIOR TO BEGINNING THE EXCAVATION. COPIES OF THESE NOTIFICATION LETTERS SHALL BE PROVIDED TO THE CITY PRIOR TO BEGINNING THE EXCAVATION.
- 28. RESPONSIBLE CERTIFIED ENGINEERING GEOLOGIST WILL INSPECT AND APPROVE ALL GRADING AND EXCAVATIONS PRIOR TO PLACEMENT OF FORMS, REBAR OR CONCRETE
- 29. LICENSED ENGINEER THAT PREPARED THE DRAINAGE PLAN SHALL CERTIFY AT THE COMPLETION OF THE PROJECT THAT THE SITE DRAINAGE IS IN SUBSTANTIAL COMPLIANCE WITH THE APPROVED DRAINAGE PLAN.
- MCCLEAN DESIGN EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT AND OTHER PROPERTY RIGHTS IN THE ATTACHED DRAWINGS LISTED. THESE DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION OF MCCLEAN DESIGN

PAUL + BAILEY WEINBERG 138 VIZ XANTHE **NEWPORT BEACH, CA 92663**

DESIGNER: MCCLEAN DESIGN PAUL MCCLEAN 1278 GLENNEYRE ST #233

STRUCTURAL ENGINEER:

LAGUNA BEACH, CA 92651

STRUCTURES - A CONSULTING COMPANY **NENO GRGURIC** 2880 SOUTH COAST HIGHWAY LAGUNA BEACH, CA 92651 Tel: (949) 715-0775 Fax: (949) 715-0776

CIVIL ENGINEER:

DESCRIPTION

TOAL ENGINEERING CALEB RIOS 139 AVENDIDA NAVARRO SAN CLEMENTE, CA 92672 TEL: (949) 492-8586 FAX: (949) 498-8625

PROJECT TEAM

11/22/11	VARIANCE SUBMITTAL
	PROJECT SUBMITTALS

PROJECT ADDRESS

138 VIA XANTHE LAGUNA BEACH, CA 92663

LEGAL DESCRIPTION

Tract 907, Lot 376 & PORTION OF LOT 375, BOOK 28, PAGE 25-36 APN#: 423-276-02

PROJECT DESCRIPTION

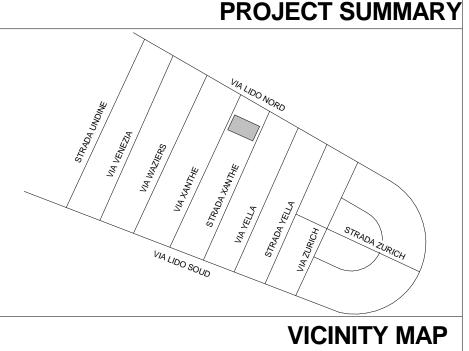
REMODEL AND ADDITION OF EXISTING SINGLE FAMILY RESIDENCE FIRST FLOOR - REMODEL INTERIOR WALL WITHIN EXISITING PERIMETER WALLS AND REMOVE AND **REPLACE WINDOWS**

CODE ANALYSIS

CODE	CBC/CRC 2010
CONSTRUCTION TYPE	VB
OCCUPANCY	R3
ZONE	R1
STORIES	2 + Garage
FIRE SPRINKLERS	NO
COMMUNITY ASSOC	LIDO ISLE
	COMMUNITY ASSO

<u>COMMUNITY ASSOC.</u>

CONFORMS (YES/NO)



PROPOSED

COVER SHEET

A 12

TOPOGRAPHIC SURVEY SITE PLAN

SECTIONS

A 1a PLOT PLAN A 2 FLOOR PLAN FLOOR PLAN A 3 **ROOF PLAN** A 4 **AREA CALCS AREA CALCS** A 6 Α7 **ELEVATIONS** A 8 **ELEVATIONS** A 9 **ELEVATIONS** A 10 **SECTIONS SECTIONS** A 11

SHEET LIST

SYMBOLS

ZONING STANDARDS REQUIRED / ALLOWED **EXISTING**

				,
USE	SFR	SFR	SFR	YES
ZONE	R - 1	R - 1	R - 1	YES
LOT AREA	44' x 74' (WITH SETBACKS)	4,400 SF	-	-
LOT WIDTH	88'	-	-	-
LOT DEPTH	50'	-	-	-
LOT SLOPE				-
MAX. BUILDING HEIGHT	24' FLAT - 29' SLOPED	24' FLAT - 29' SLOPED	24' FLAT - 29' SLOPED	YES
MAX. HEIGHT - THROUGH LOT	24' FLAT - 29' SLOPED	24' FLAT - 29' SLOPED	24' FLAT - 29' SLOPED	YES
SETBACKS:				
FRONT YARD (THD)	4'	4'	4'	YES
REAR YARD	10'	10'	10'	YES
SIDE YARD	4'	3'	3'	NO
LOT COVERAGE	USE	USE	USE	YES
LANDSCAPE OPEN SPACE	-	-	-	YES

PROJECT DATA

DESCRIPTION	EXISTING	PROPOSED	TOTAL	
LIVING AREA:				
GARAGE FLOOR	-	-		
FIRST FLOOR (LOWER LEVEL)	2,094 SF	2,094 SF	2,094 SF	
SECOND FLOOR (UPPER LEVEL)	-	810 SF	810 SF	
TOTAL	2,094 SF	2,904 SF	2,904 SF	
GARAGE	395 SF	395 SF	395 SF	
COURTYARD OPEN TO ABOVE	480 SF	480 SF	480 SF	
MECHANICAL	-	-		
STORAGE	-	-		
SITE WORK				

STURAGE	-	-			
SITE WORK					
GRADING	OUTSIDE OF STRUCTURAL FOOTPRINT	INSIDE OF STRUCTURAL FOOTPRINT	TOTAL		
CUT	-	-	-		
FILL	-	-	-		
NET EXPORT	-	-	-		
IMPERVIOUS SURFACES	SQUARE FOOTAGE	% OF LOT AREA			
PROJECT SUMMARY TABLE					

N 0

MCCLEAN

1278 GLENNEYRE, #233

714-505-0556 (T) 714-505-0557 (F)

DRAWN BY | Author

PROJECT

DATE

LAGUNA BEACH, CA 92651

DESIGN

11/02/2011

SIDI RT E XANT

GENERAL NOTES

GENERAL NOTES CONTINUED

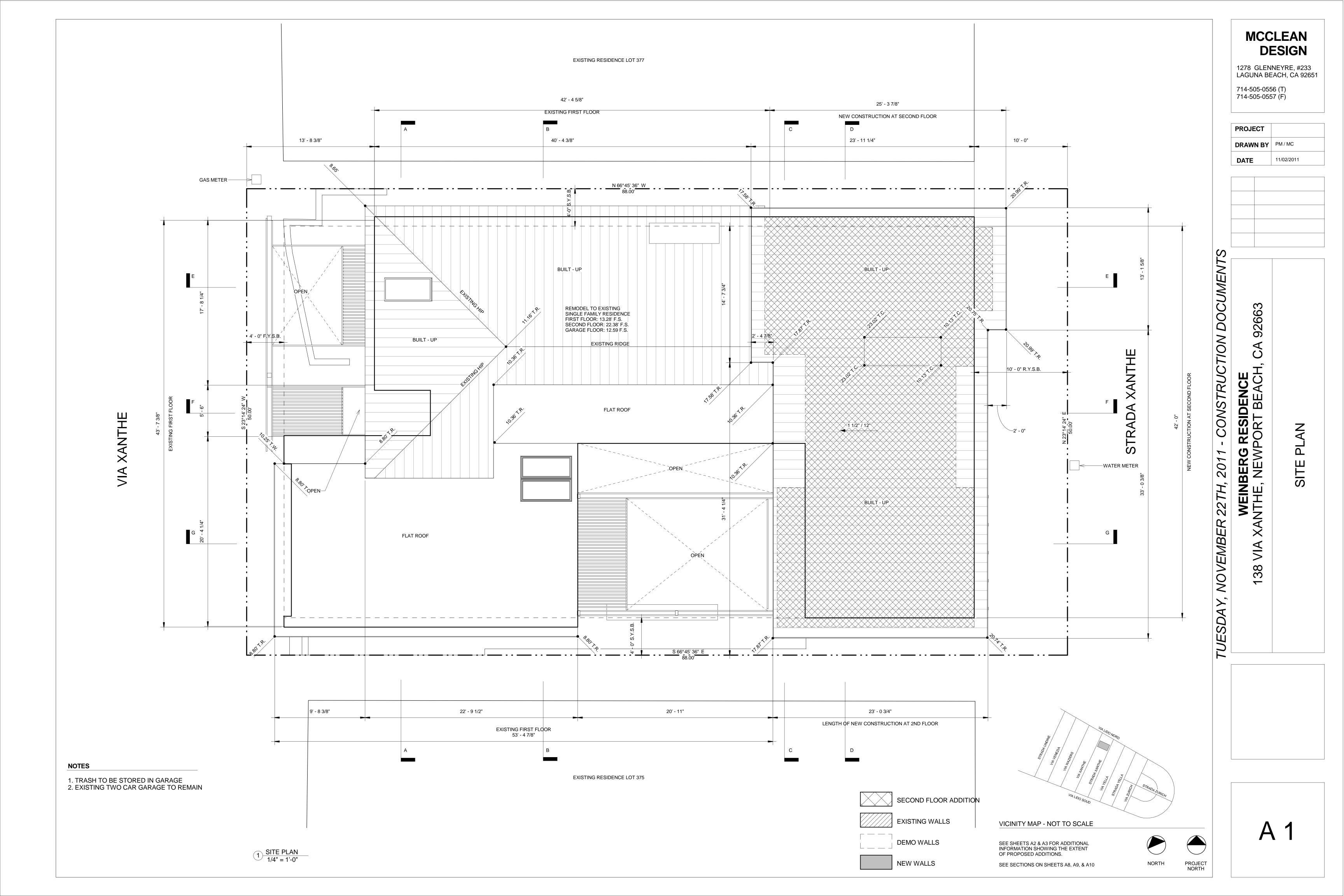
<u>LEGEND</u> —X——X CONCRETE SURFACE MASONRY WALL WOOD WALL RARRE ROCK WALL FINISHED FLOOR FINISHED SURFACE TOP OF GRATE INVERT OF PIPE TOP OF CURB EDGE OF PAVEMENT TOP OF WALL FOUND MONUMENT Existing residence LOT 377 A N3" drain inlet 3" drain inlet 1 A N3" drain N 66'45'30" W 88.00' 12 TR5**D** 3" drain inlet Existing residence LOT 376 & THE NORTHEASTERLY 15' OF LOT 375 TRACT 907 Existing residence POR. LOT 375 LOT 381 LOT 374

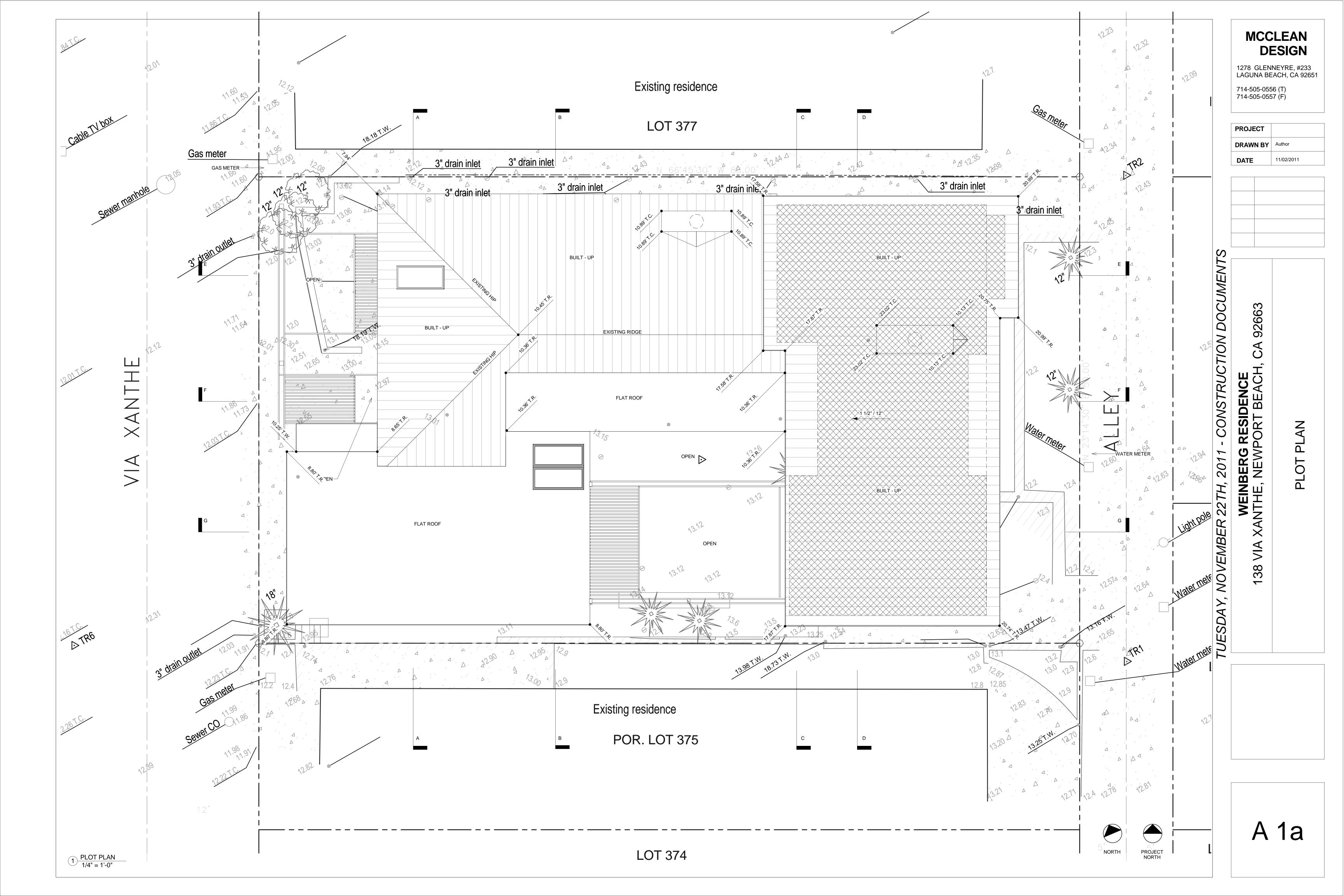
BENCHMARK NOTE: OCSBM NB3-12-70 ELEV=11.784 NAVD88 DATUM, 1992 ADJ.

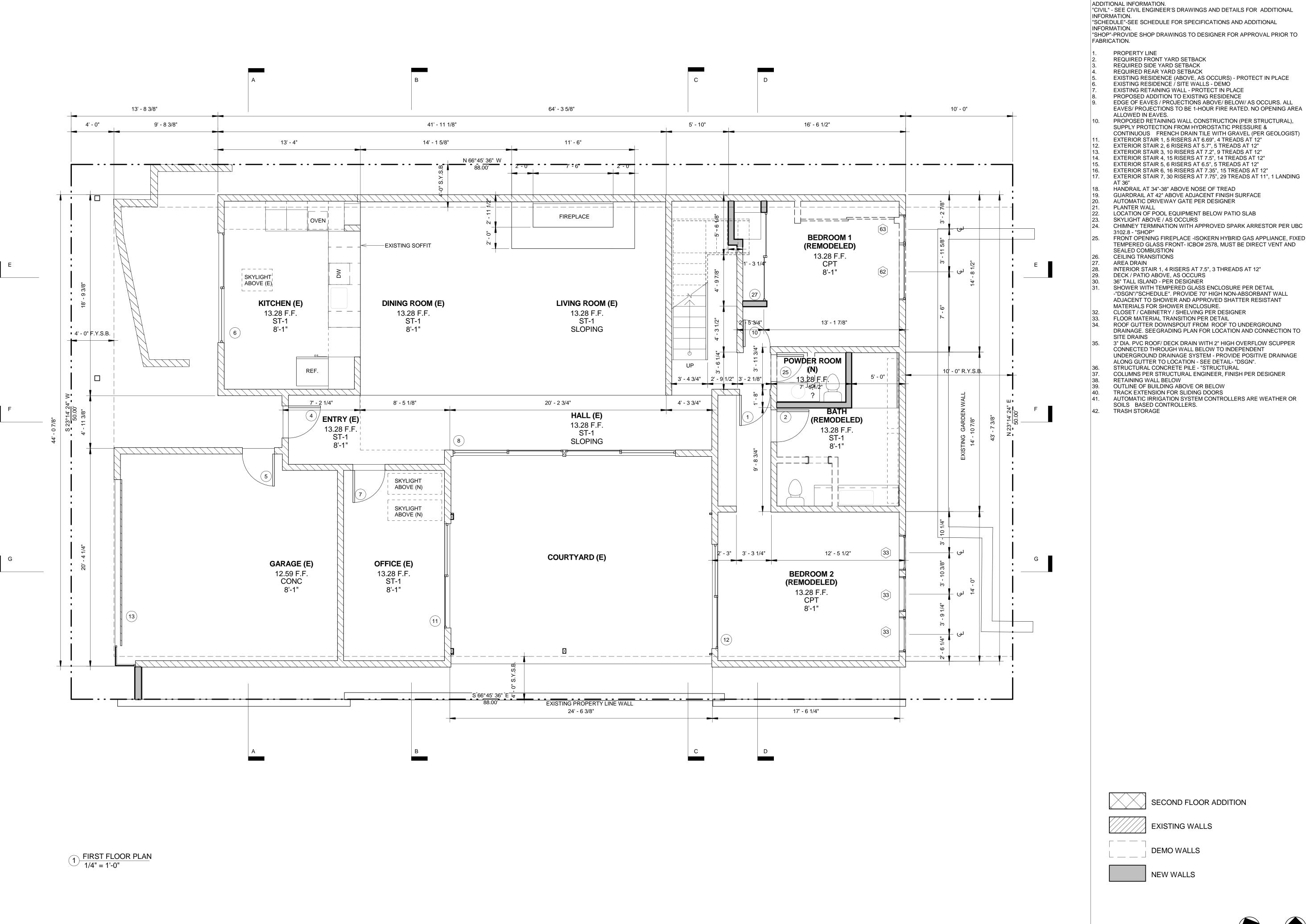
BOUNDARY NOTE:
THIS IS NOT A BOUNDARY SURVEY. THE TOPOGRAPHIC FEATURES AS SHOWN
ON THIS MAP MAY BE ADJUSTED RELATIVE TO THE PLAT UPON COMPLETION
OF A BOUNDARY SURVEY

SHEET 1 OF 1

JOB NO.
14397







1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651

714-505-0556 (T) 714-505-0557 (F)

PROJECT DRAWN BY PM/MC 11/02/2011 DATE

UME

92663 S RG RESIDENCE WPORT BEACH, WEINBER XANTHE, NE

UESDAY, NOVEMBER 22TH, 20

SECOND FLOOR ADDITION

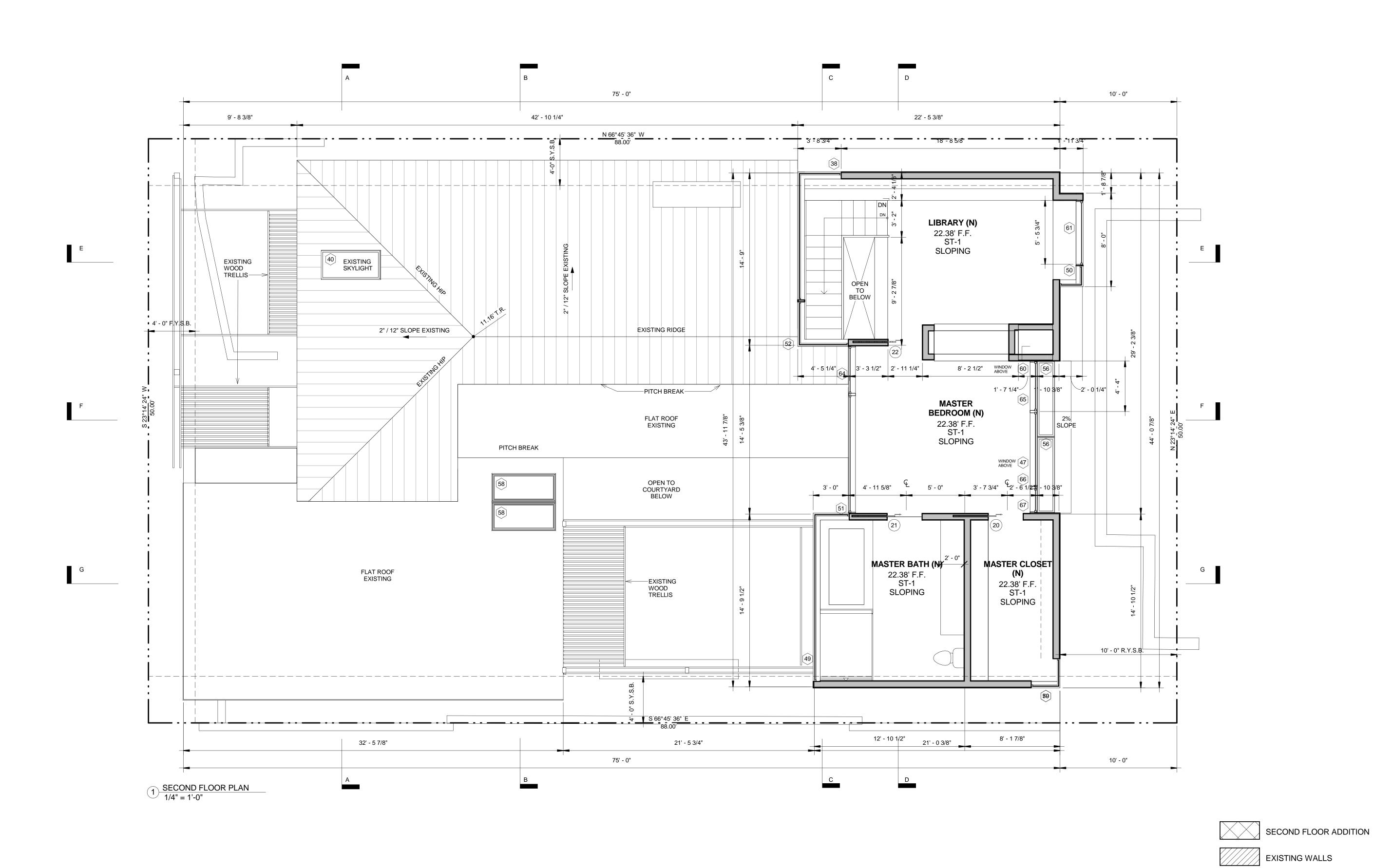
"DSGN"- ADDITIONAL INFORMATION TO BE PROVIDED BY DESIGNER. "OWNER"- ADDITIONAL INFORMATION TO BE PROVIDED BY OWNER.

"STRUCTURAL"- SEE STRUCTURAL ENGINEER'S DRAWINGS AND DETAILS FOR

EXISTING WALLS







1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651

714-505-0556 (T) 714-505-0557 (F)

PROJECT DRAWN BY PM/MC 11/02/2011

DATE

CONSTRUCTION DOCUMENTS

92663 CA WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH,

FLOOR PLAN SECOND

TUESDAY, NOVEMBER 22TH, 2011

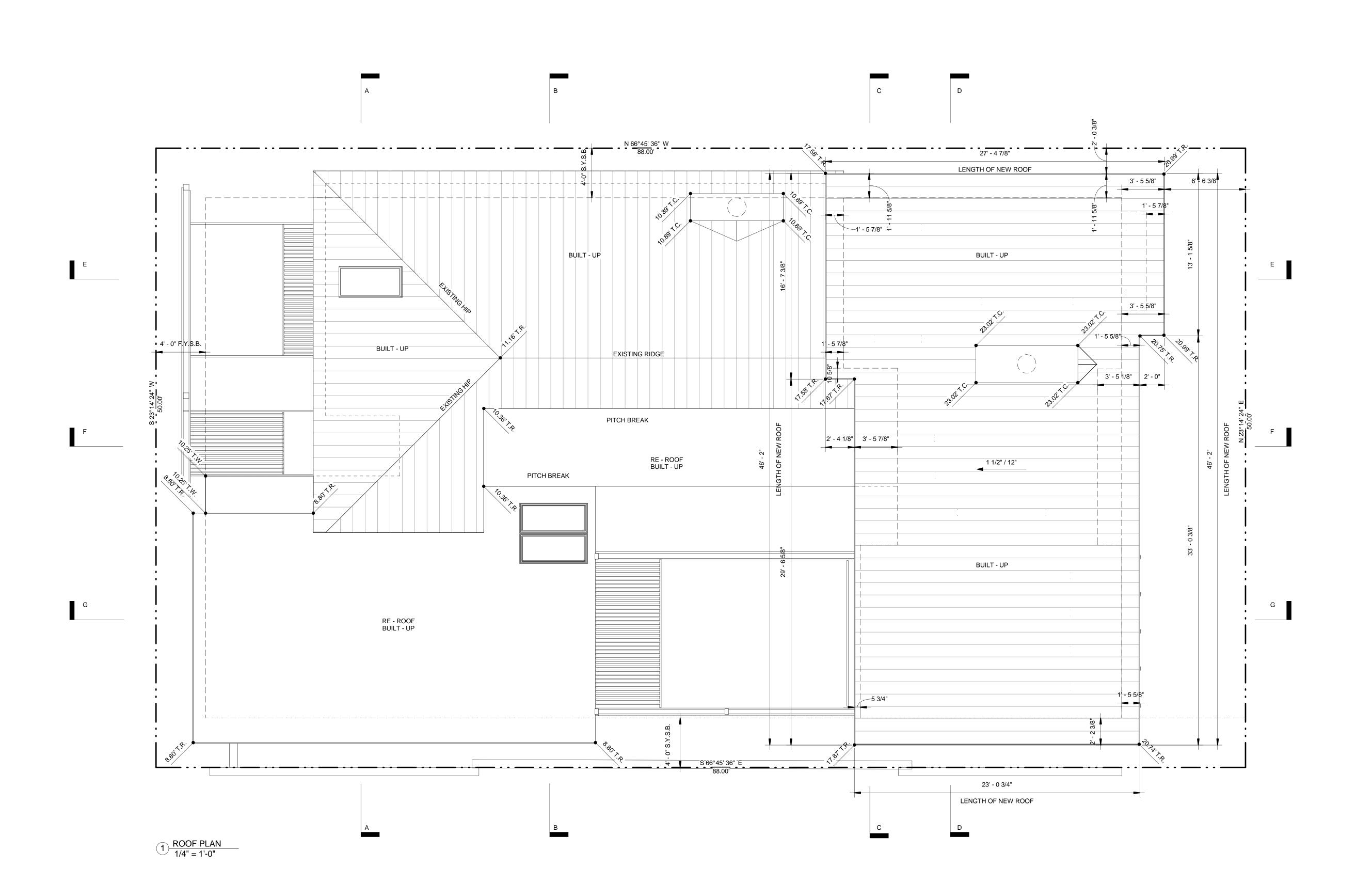
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DEMO WALLS

NEW WALLS





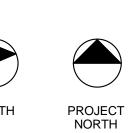
1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F)

PROJECT

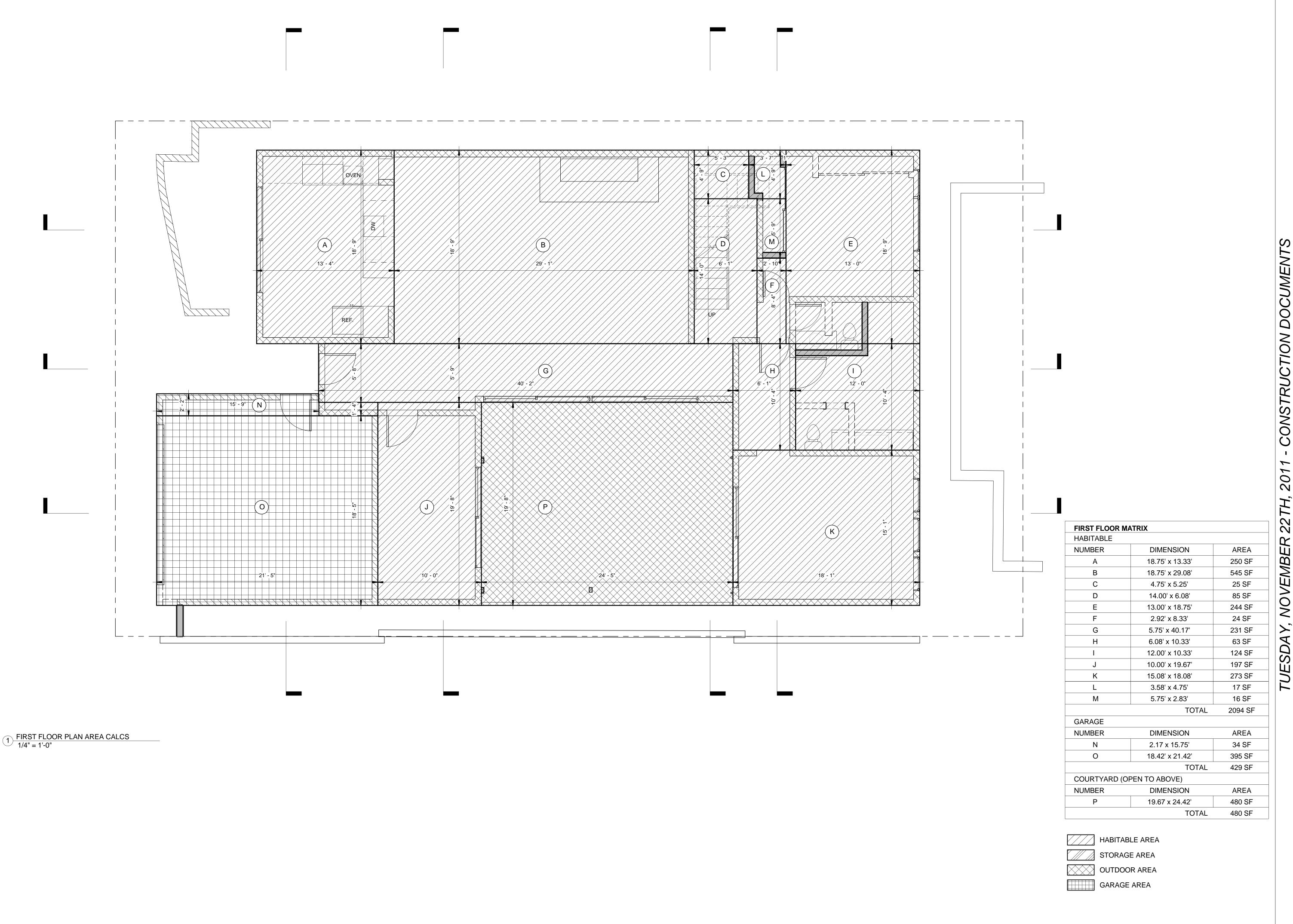
DRAWN BY PM/MC DATE 11/02/2011

TUESDAY, NOVEMBER 22TH, 2011 - CONSTRUCTION DOCUMENTS

WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH, CA 92663







1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651

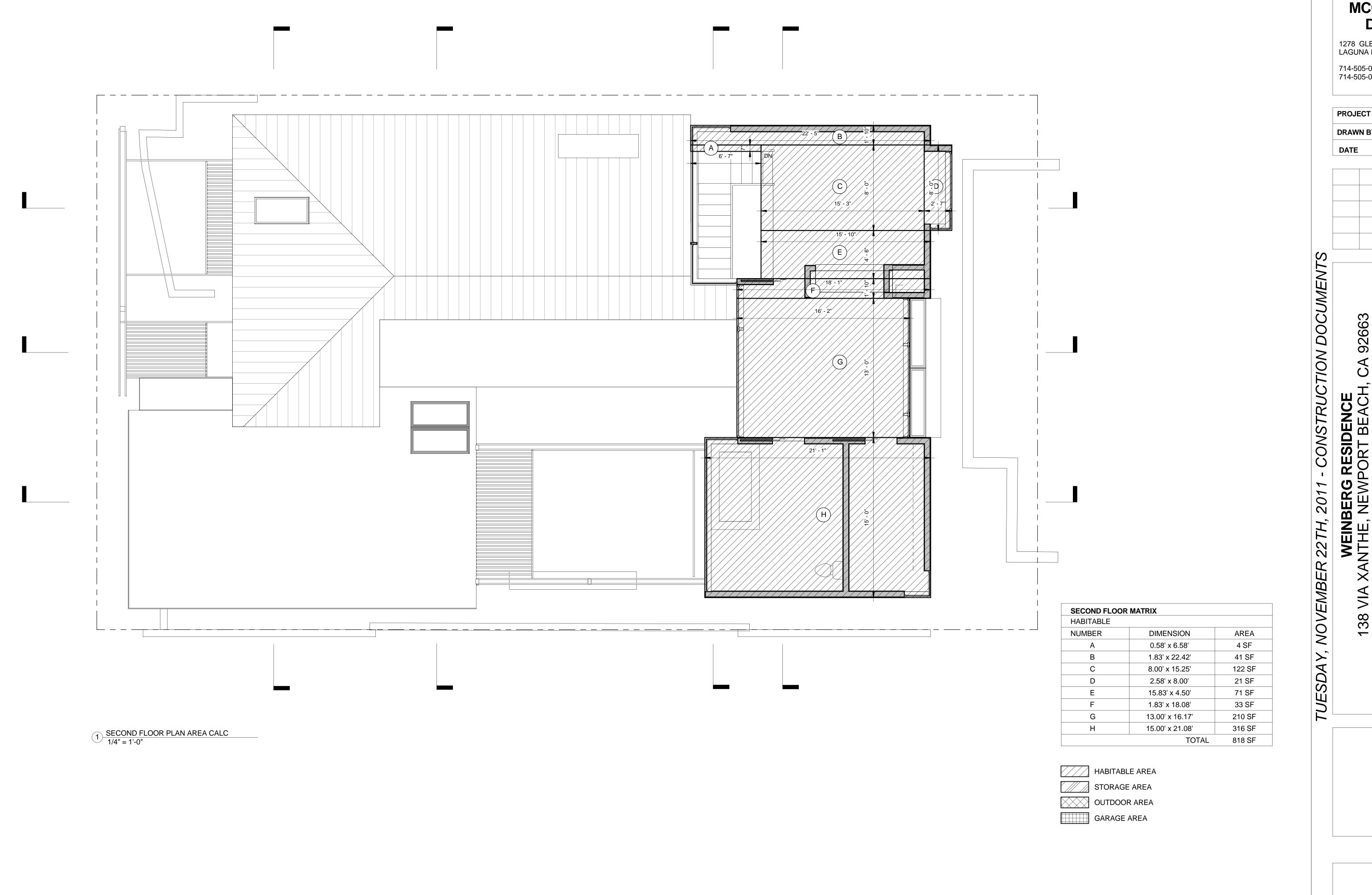
714-505-0556 (T) 714-505-0557 (F)

PROJECT DRAWN BY Author

DATE

92663 WEINBERG RESIDENCE XANTHE, NEWPORT BEACH,

FIRST



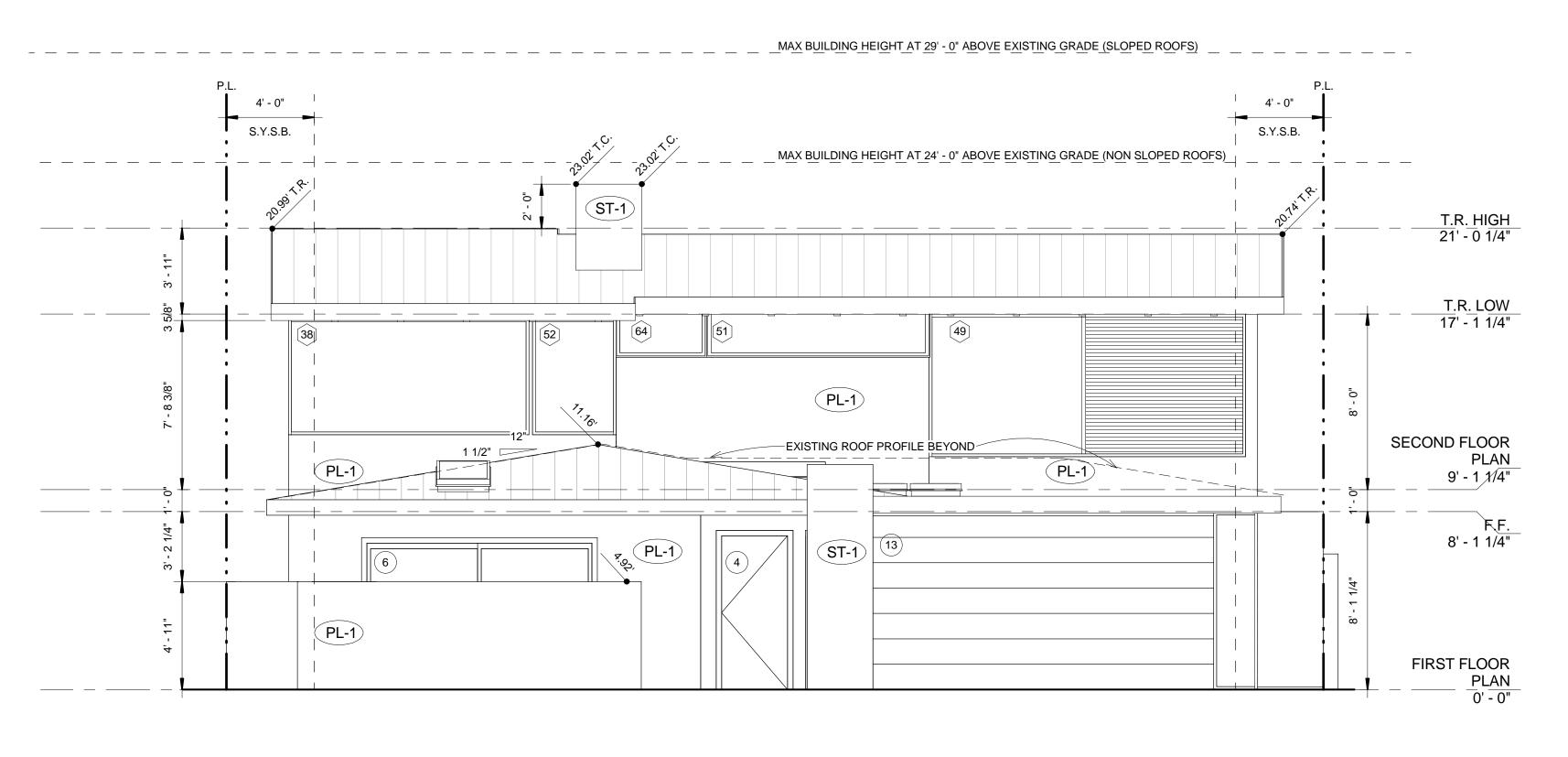
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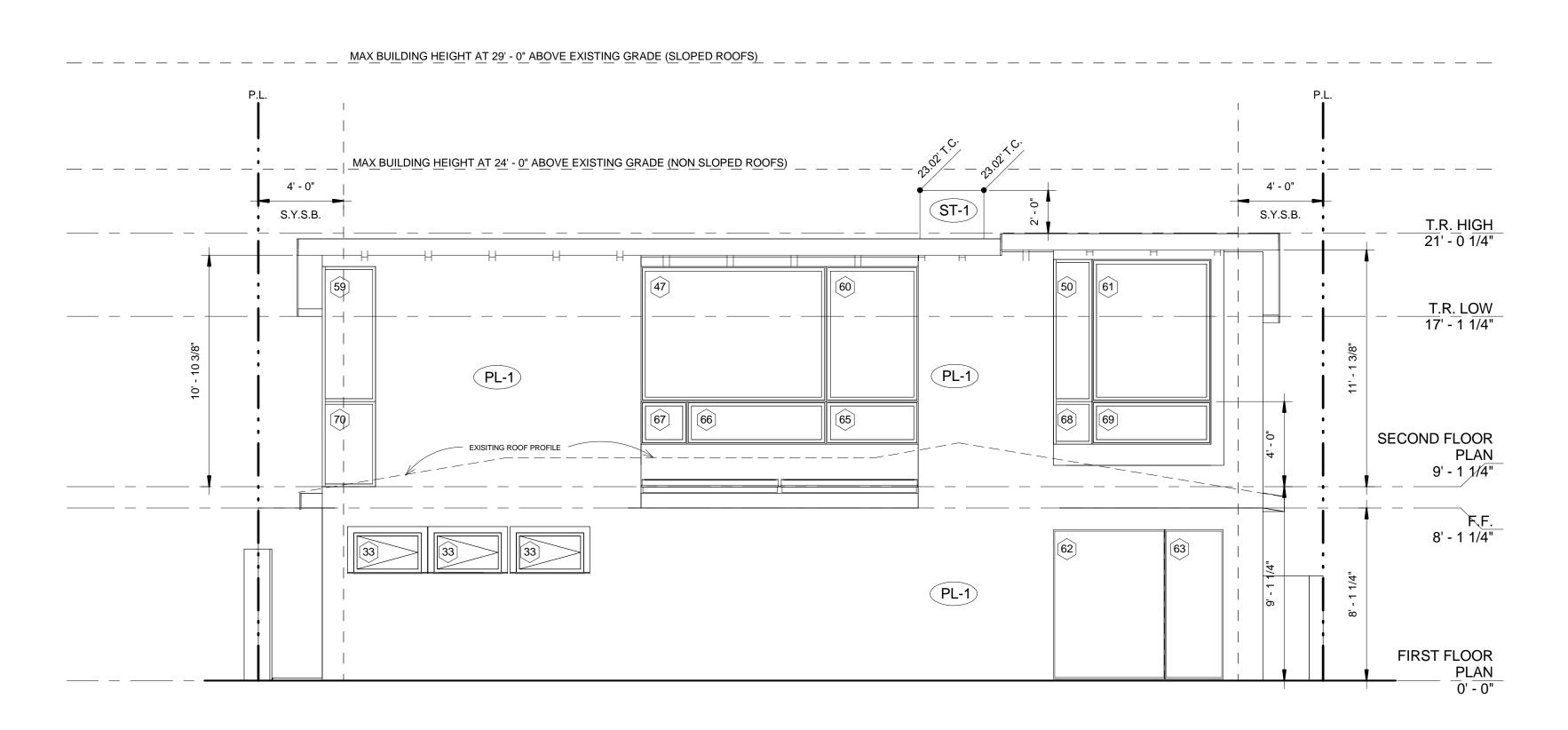
PROJECT DRAWN BY Author

CA 92663 WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH,

OR AREA CALCS SECOND FLO



1) WEST ELEVATION 1/4" = 1'-0"

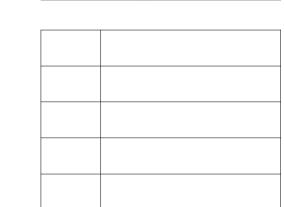


2 EAST ELEVATION 1/4" = 1'-0"

MCCLEAN DESIGN

1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F)

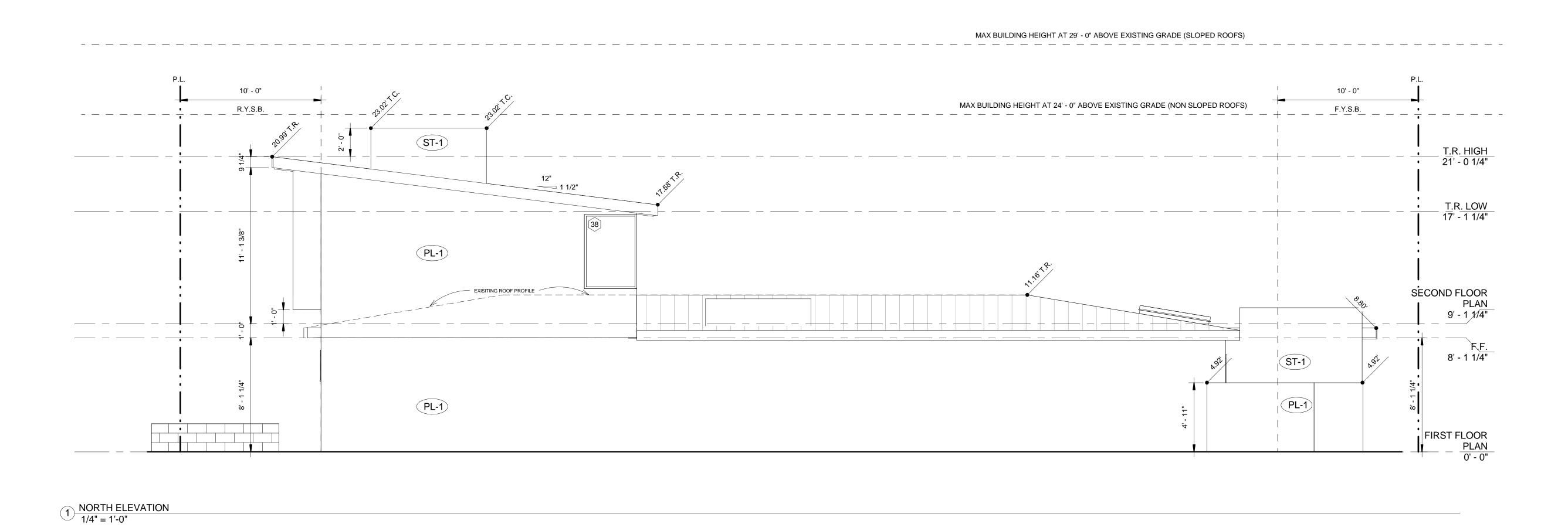
PROJECT DRAWN BY PM/MC DATE 11/02/2011

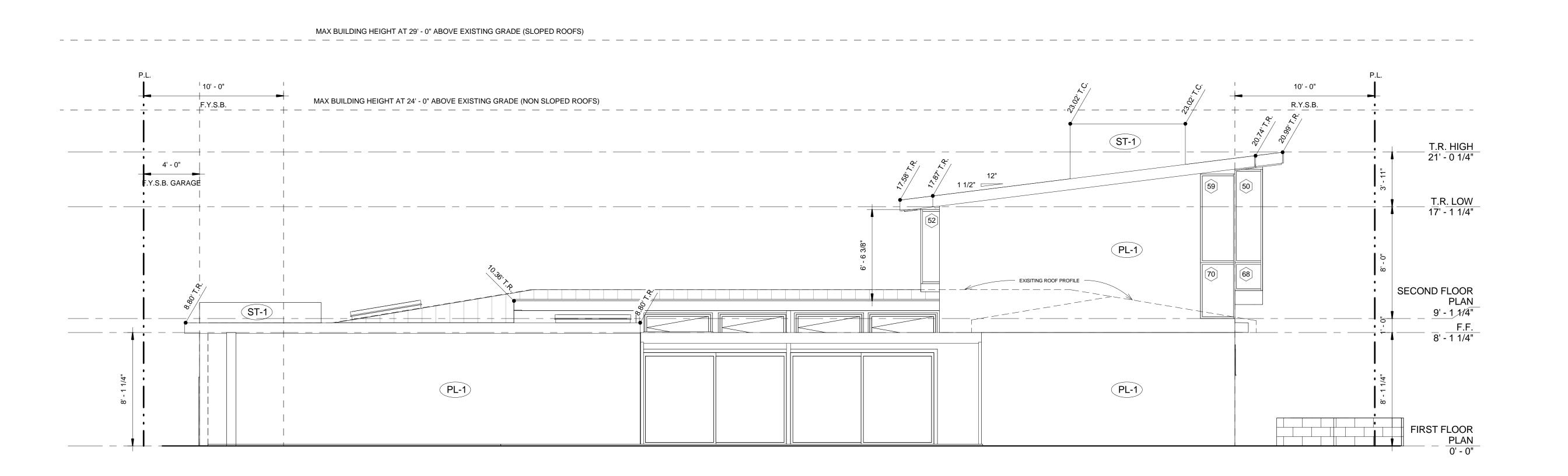


TUESDAY, NOVEMBER 22TH, 2011 - CONSTRUCTION DOCUMENTS CA 92663

VATIONS ELE

WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH,





2 SOUTH ELEVATION 1/4" = 1'-0" CONSTRUCTION DOCUMENTS 92663 CA WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH, **VATIONS** TUESDAY, NOVEMBER 22TH, 2011 ELEV

MCCLEAN

1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651

714-505-0556 (T)

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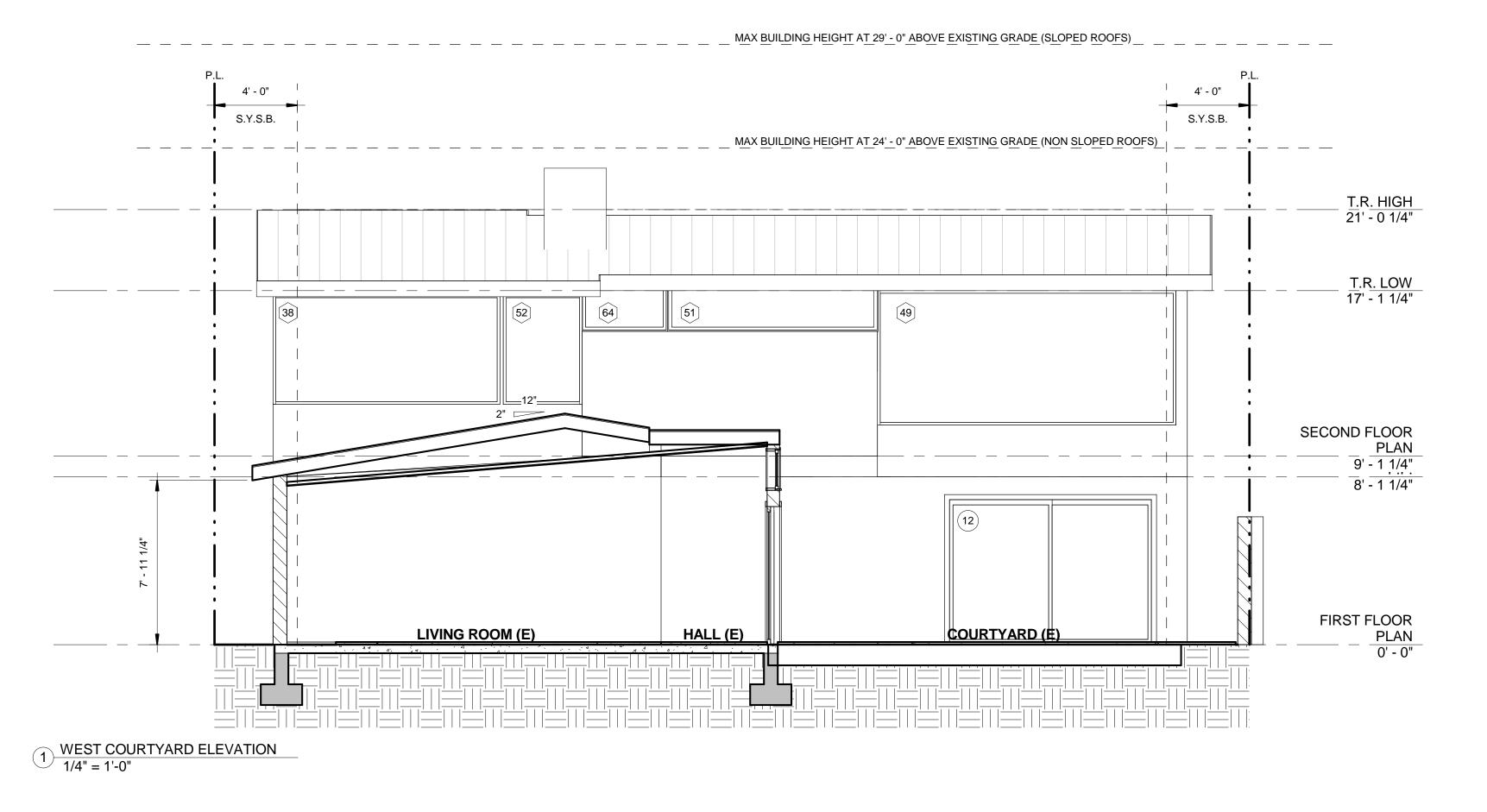
PROJECT

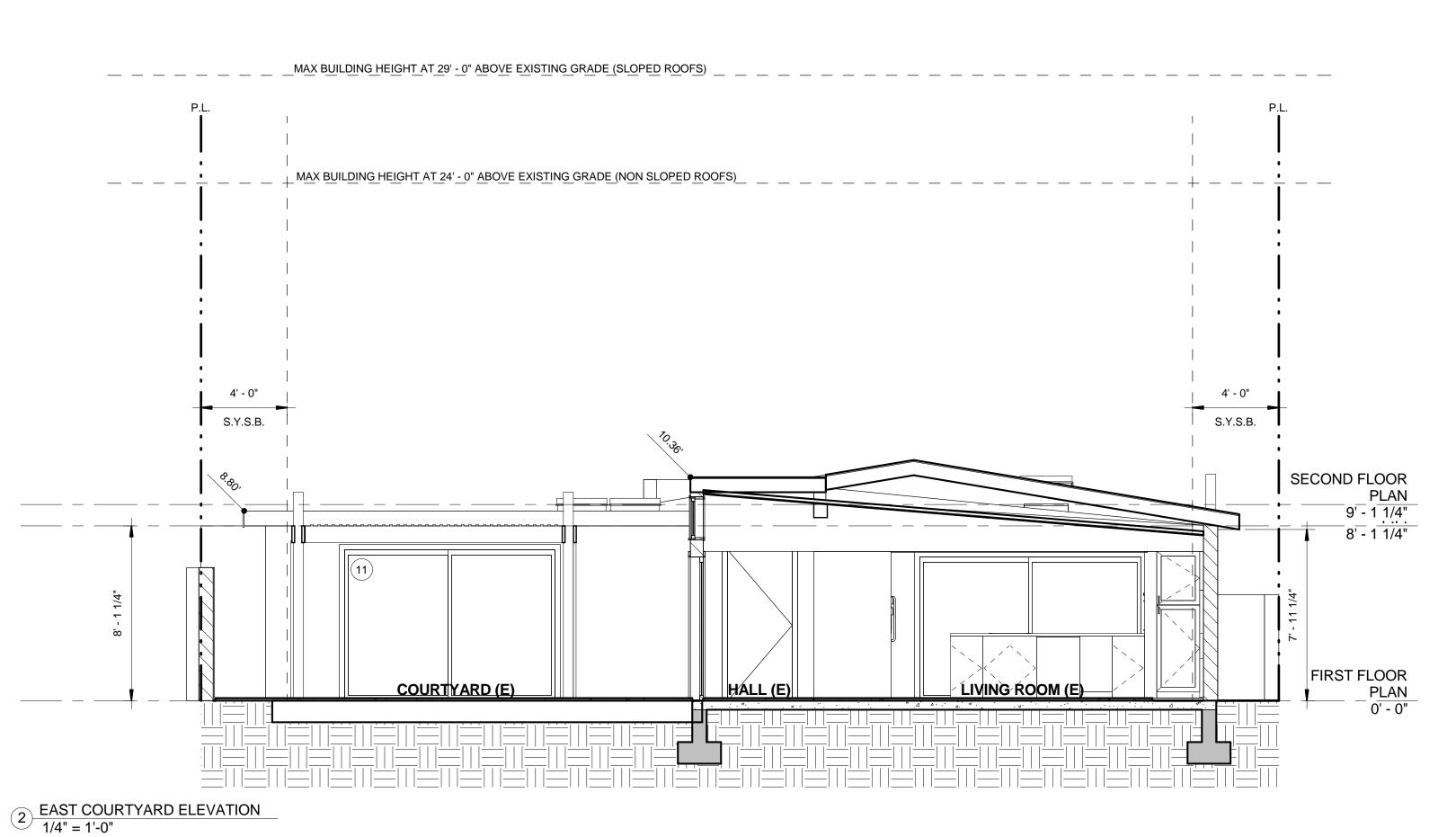
DATE

DESIGN

11/02/2011

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1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F) **PROJECT** DRAWN BY PM/MC 11/02/2011

DATE

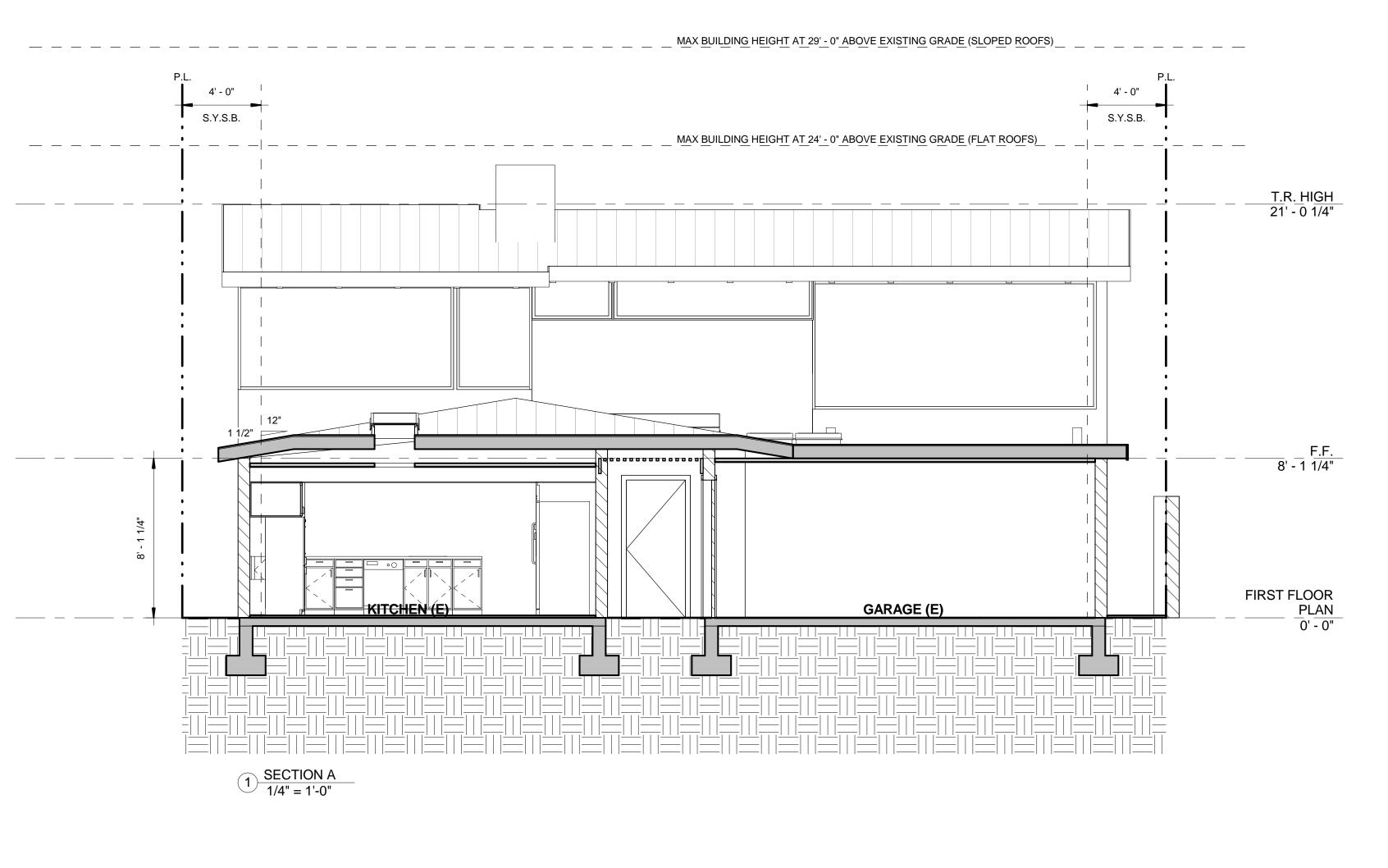
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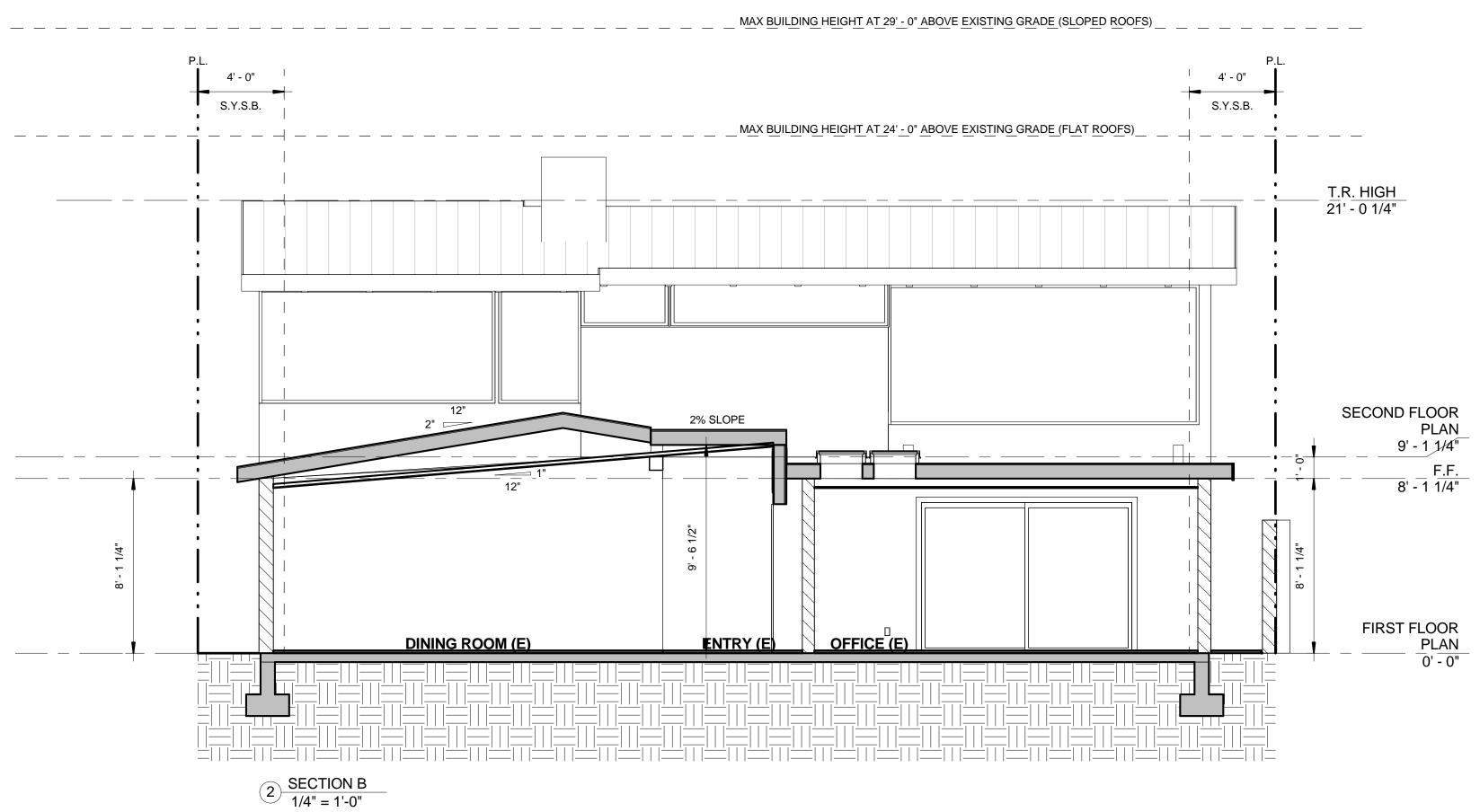
DESIGN

CONSTRUCTION DOCUMENTS CA 92663 WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH, TUESDAY, NOVEMBER 22TH, 2011

COURTYARD

ELEVATIONS





1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F)

PROJECT

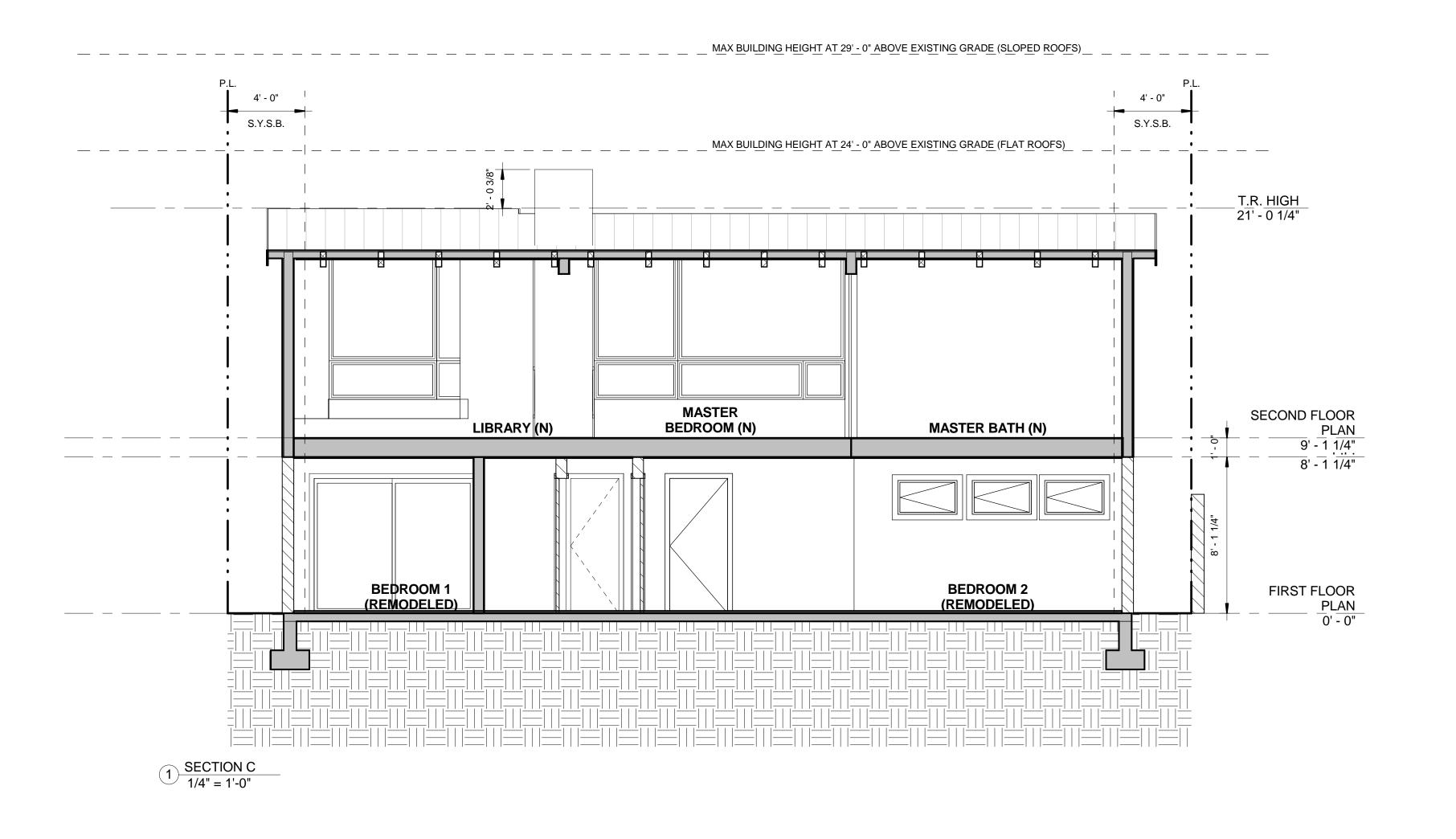
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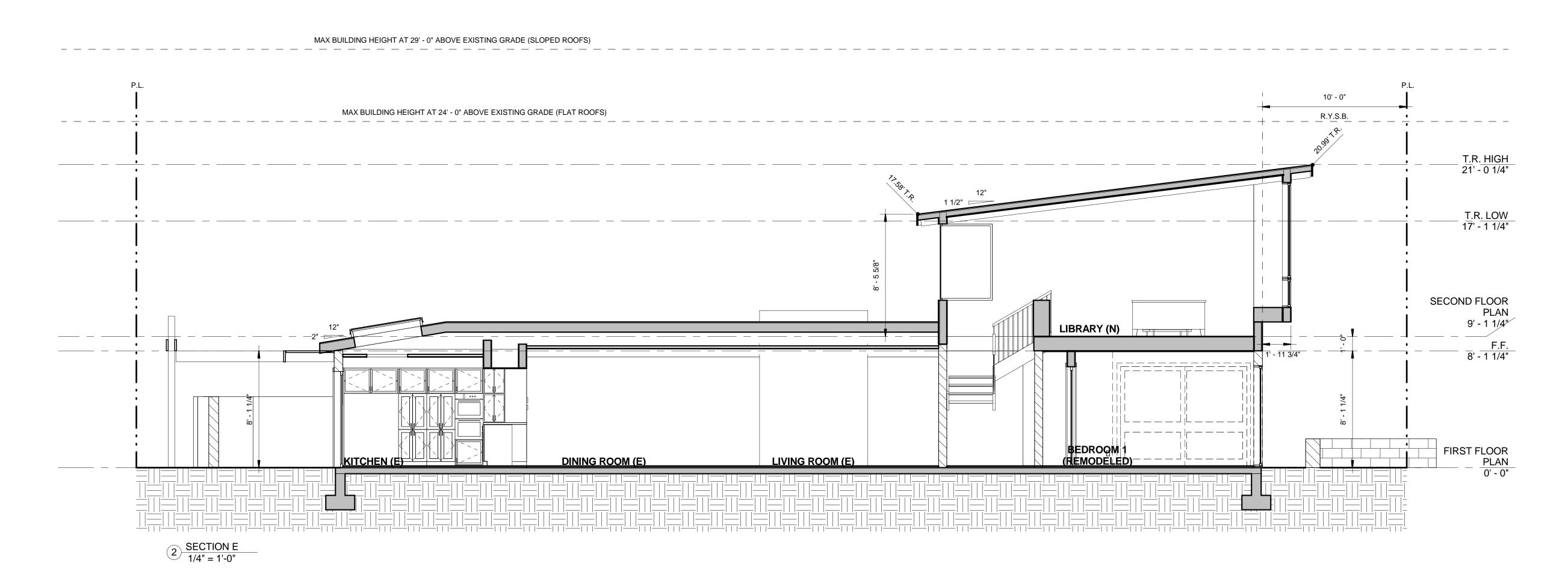
CONSTRUCTION DOCUMENTS

WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH, CA 92663

TUESDAY, NOVEMBER 22TH, 2011

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1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F)

PROJECT DRAWN BY PM/MC

DATE 11/02/2011

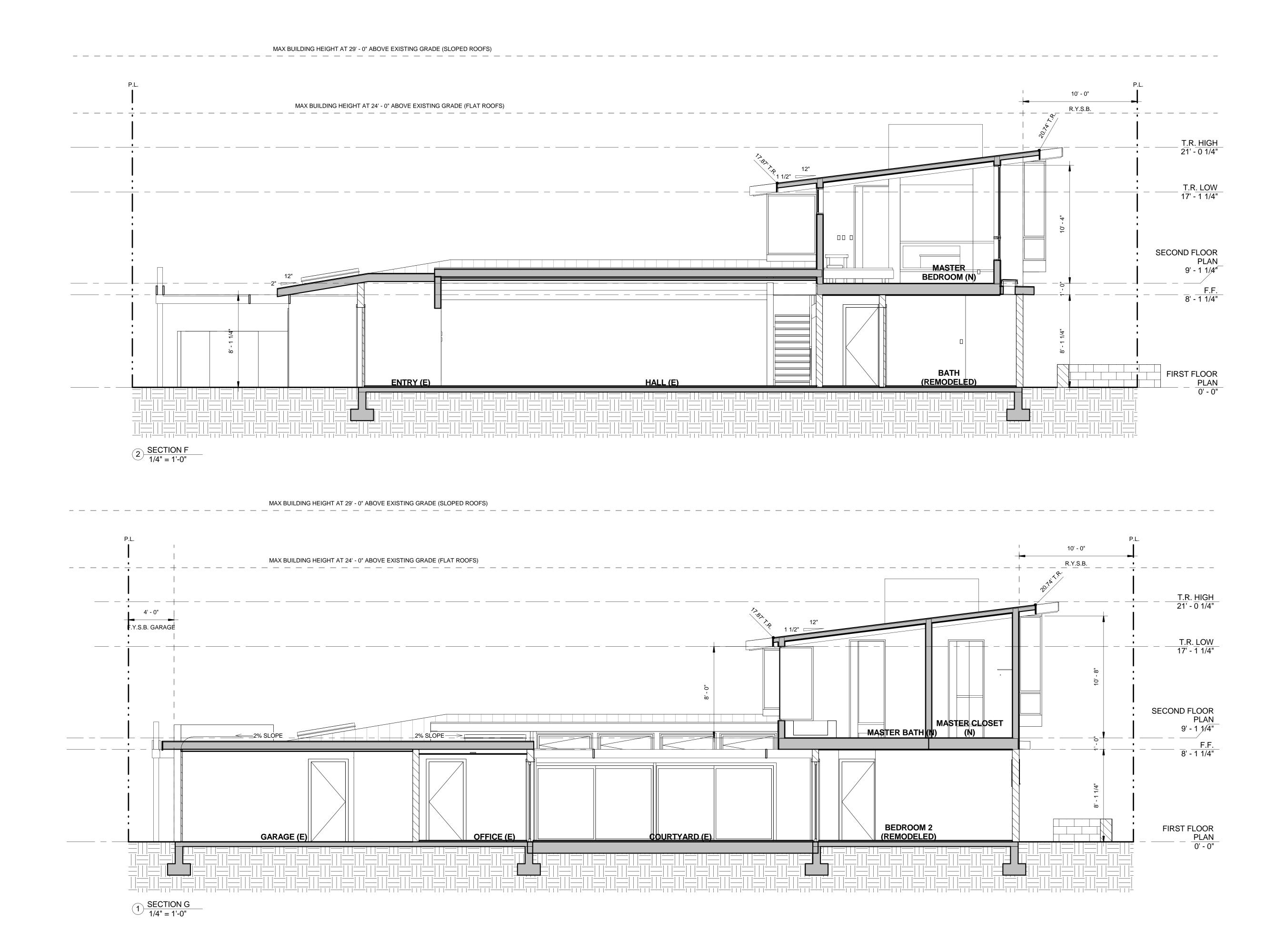
CONSTRUCTION DOCUMENTS

92663 CA

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WEINBERG RESIDENCE 138 VIA XANTHE, NEWPORT BEACH,

TUESDAY, NOVEMBER 22TH, 2011



1278 GLENNEYRE, #233 LAGUNA BEACH, CA 92651 714-505-0556 (T) 714-505-0557 (F)

PROJECT

DRAWN BY PM/MC 11/02/2011 DATE

CA 92663 RG RESIDENCE EWPORT BEACH,

CONSTRUCTION DOCUMENT

UESDAY, NOVEMBER 22TH, 2011

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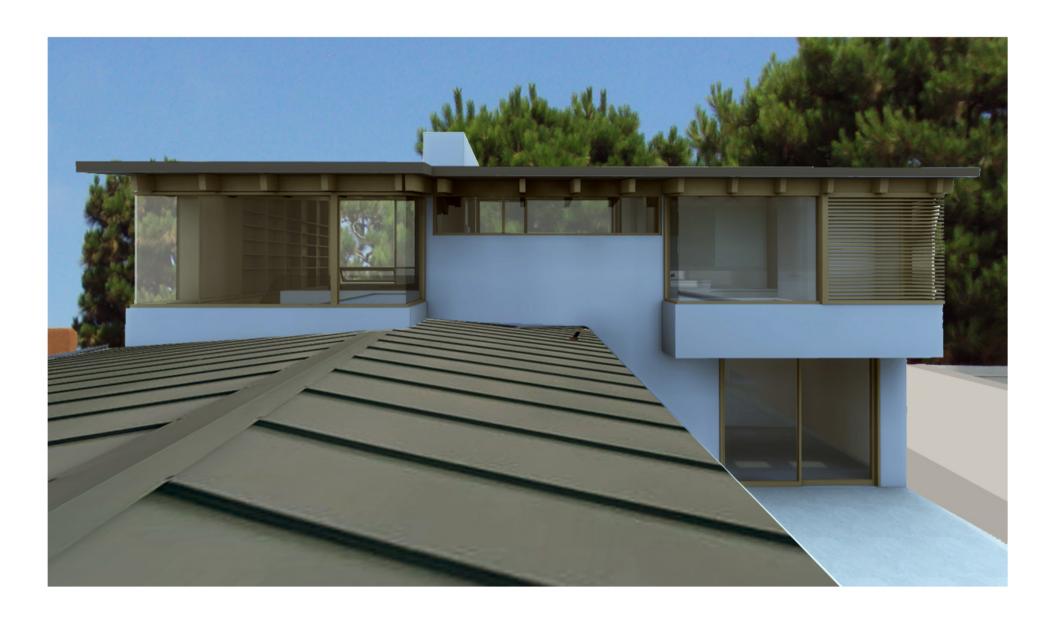






138 VIA XANTHE RESIDENCE

RENDERING DATE: 11/22/11











Correspondence
Item No. 3a
Weinberg Variance
PA2011-207

August 1, 2011

City of Newport Beach Attn: Planning Commission 3300 Newport Boulevard Newport Beach, CA 92663

It is our understanding that Paul and Bailey Weinberg located at 138 Via Xanthe, Newport Beach, will be applying for a building permit and the current City code will only provide for a four-foot, side yard setback from the adjacent property line. We are writing this letter to notify the City that as the adjacent resident located at 130 Via Xanthe, Newport Beach we do not have an objection to the property owners using for their remodel plans the existing three-foot setback from our property line. If there are any questions, please contact us at the following address.

Wade and Ronda Clark 130 Via Xanthe Newport Beach, CA 92663

WMI

Wade Clark

Ronda Clark

Jonda Claud

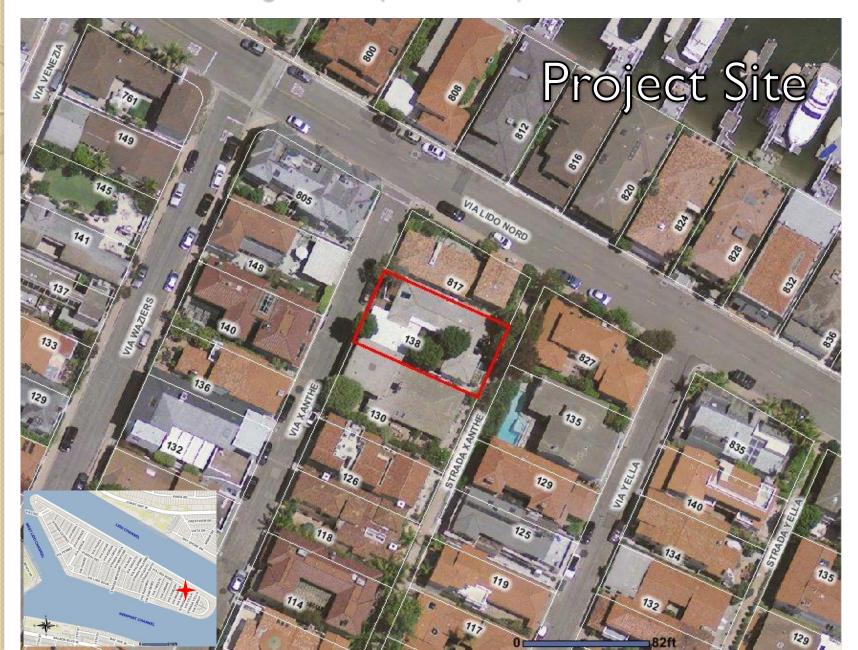
Weinberg Variance 138 Via Xanthe

Planning Commission February 9, 2012



Presented By James Campbell, Principal Planner

Weinberg Variance (PA2011-207) 138 Via Xanthe



Variance Request

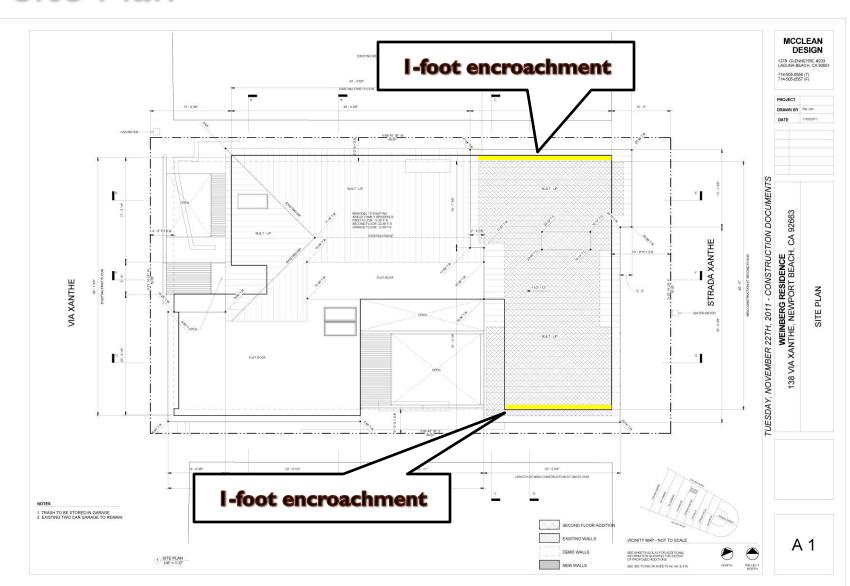
- Side yard setback encroachments
- 4-foot side yard setback required
- Second story, 818 square foot addition, would provide 3-foot setback (both side yards)

Background

- Home built in 1950, remodeled since
- Single-story
- 3-foot setbacks
- Legal nonconforming

Weinberg Variance (PA2011-207) 138 Via Xanthe

Site Plan

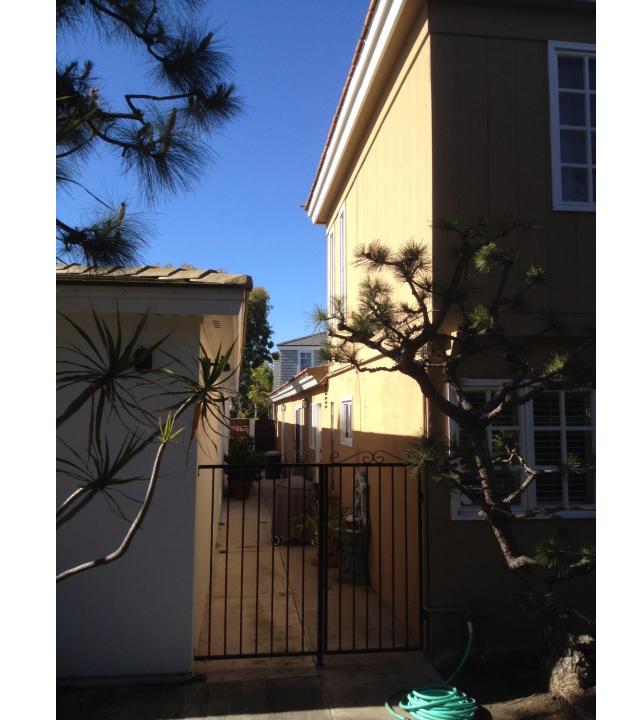




















Variance Findings

- Required setback would not allow addition to use existing wall for structural support
- Required setback would cause additional reconstruction or demolition of existing
- No detriment to abutting properties
 - Length of encroachment limited
 - No directly facing windows
 - Not built to full height

Weinberg Variance (PA2011-207) 138 Via Xanthe

Recommendation

Adopt draft Resolution approving the application request

Convert Condition No. 4 to a Finding

This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.

Eliminate Condition No. 5

This Variance may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

February 9, 2012 Meeting Agenda Item <u>4</u>

SUBJECT: Beach Coin Laundromat Amendments - PA2011-209

200 30th Street

General Plan Amendment No. GP2011-010

Local Coastal Plan Amendment No. LC2011-006

Code Amendment No. CA2011-013

APPLICANT: Pete Fenton, Beach Coin Laundry LLC

PLANNER: Fern Nueno, Assistant Planner

(949) 644-3227, fnueno@newportbeachca.gov

PROJECT SUMMARY

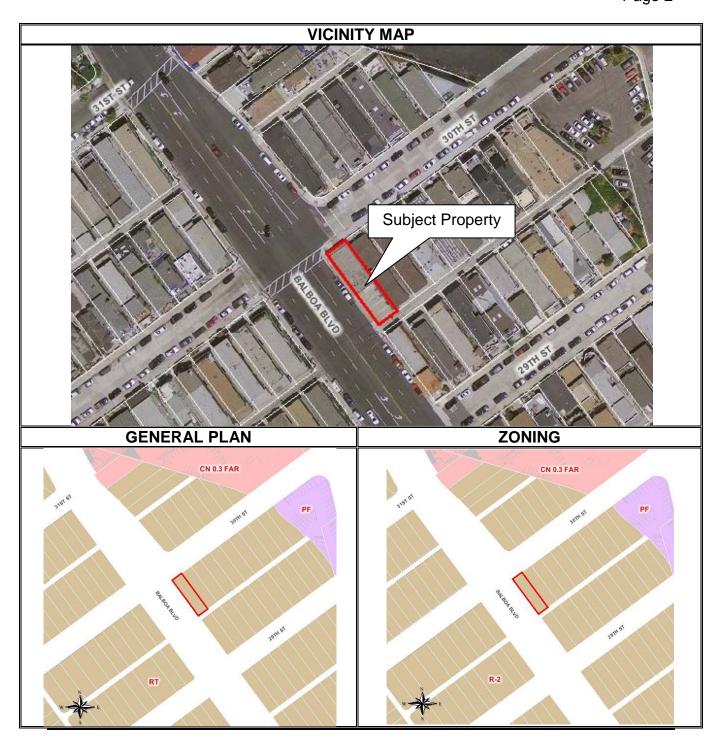
The property owner seeks to continue the nonconforming commercial use of the subject property by requesting the following amendments:

- 1) General Plan Amendment to change the land use designation from Two-Unit Residential (RT) to Visitor Serving Commercial (CV),
- 2) Coastal Land Use Plan Amendment to change the designation from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A), and
- 3) Zoning Code Amendment to change the zoning designation from Two-Unit Residential (R-2) to the Commercial Visitor-Serving (CV).

No change in land use or new development is proposed at this time.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ___ (Attachment No. PC 1) recommending City Council approval of:
 - General Plan Amendment No. GP2011-010,
 - Local Coastal Plan Amendment No. LC2011-006, and
 - Code Amendment No. CA2011-013.



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Laundromat
NORTH	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Residential
SOUTH	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Residential
EAST	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Residential
WEST	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Residential

INTRODUCTION

Project Setting

The subject lot is located on the Balboa Peninsula and is approximately 2,375 square feet in area (25 feet wide by 95 feet deep). The lot is developed with an approximately 1,175 square foot, single-story commercial building and a surface parking lot with four (4) parking spaces. The surrounding area is developed primarily with two-unit residential uses with commercial and mixed-use districts nearby.

Background

The existing building was constructed prior to 1953 and the City does not have any building permits on file for this property. On May 21, 1953, the Planning Commission approved Use Permit No. 88 to allow alterations to the existing, nonconforming building. At the time, the property was designated for residential use; however, the structure was being used for a commercial use (grocery store).

On September 15, 1960, the Planning Commission approved Use Permit No. 669 to allow the operation of a laundromat for a period of four (4) years. On September 1965, the Planning Commission approved an extension for the duration of the lease or a maximum of seven (7) years. On September 28, 1971, the Modifications Committee approved a two (2) year extension. On September 25, 1973, the Modifications Committee approved a two (2) year extension. On September 2, 1975, the Modifications Committee approved a five (5) year extension. Since September 2, 1980, when the Use Permit expired, the laundromat has been in operation as a nonconforming use.

On January 28, 2008, the City Council adopted Ordinance No. 2008-05, which in addition to other Zoning Code changes, established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until Coastal Commission approval of the City's Local Coastal Plan (LCP) amendments, which occurred on July 14, 2009, and the subsequent Zoning Code Update which was effective November 25, 2010.

On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The two unit residential zoning designation of the subject property was changed from Two Family Residential (R-2) District to Two-Unit Residential (R-2). Since the use of the subject property is a commercial use in a residential zone, it was subject to abatement in accordance with Ordinance No. 2008-05.

The City sent letters to all known uses that are subject to abatement. Staff has met and continues to meet with many of the owners of property that are subject to abatement. Staff has explained to those owners the options available to them to remedy their individual situations. Those remedies may include conversion of use or development to a residential use; request for extension of the abatement period; and/or request to amend the General Plan, Coastal Land Use Plan and Zoning Code to allow the continuation of the commercial use. In the case of the subject application, the owner chose to pursue amendments to change the land use designations of their property from residential to commercial.

Project Description

The subject application does not include a specific project for development at this time. The proposed land use changes, as shown below, would allow the retention of the existing land use and allow for future development in accordance with the standards of the proposed Zoning District.

	Existing	Proposed
General Plan	Two-Unit Residential (RT)	Visitor Serving Commercial (CV)
Coastal Land Use Plan	Two-Unit Residential (RT-E)	Visitor Serving Commercial (CV-A)
Zoning Code	Two-Unit Residential (R-2)	Commercial Visitor-Serving (CV)

When the application was submitted, a mixed use land use designation was considered for the property. However, upon further review staff believes Visitor Serving Commercial is more suitable than a mixed use district designation. The Visitor Serving Commercial Zoning District reflects the existing development and due to the size of the property and the development standards for the mixed use districts, redevelopment of the property as a mixed-use structure would not be feasible without multiple deviations from the Zoning Code standards.

DISCUSSION

<u>Analysis</u>

Amendments to the General Plan Land Use Plan, Coastal Land Use Plan, and Zoning Code are legislative acts. Neither City regulations nor State planning law set forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider applicable policies and development standards to ensure internal consistency and to further the public health, safety, and general welfare of the community.

General Plan

The applicant requests to amend the General Plan to change land use designation of the subject property from Two-Unit Residential (RT) to Visitor Serving Commercial (CV). The RT category applies to a range of two family residential dwelling units such as duplexes and townhomes. The CV designation is intended to provide for accommodations, goods, and services intended to primarily serve visitors to the City of Newport Beach. Nearby properties along Newport Boulevard and Balboa Boulevard are designated as CV 0.5 FAR.

In considering the proposed General Plan Amendment, the Planning Commission should consider the following Land Use Element policies:

Policy LU 3.3 - Opportunities for Change

Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors...

• Balboa Peninsula: more efficient patterns of use that consolidate the Peninsula's visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial districts along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve the historical and architectural fabric of these districts.

Policy LU 6.8.1 – Urban Form

Establish development patterns that promote the reinforcement of Balboa Peninsula's pedestrian scale and urban form as a series of distinct centers/nodes and connecting corridors.

Policy LU 6.8.6 – Historic Character

Preserve the historic character of Balboa Peninsula's districts by offering incentives for the preservation of historic buildings and requiring new development to be compatible with scale, mass, and materials of existing structures, while allowing opportunities for architectural diversity.

Approval of the amendment will allow the continuation of the existing commercial development, thereby not subjecting the use to abatement. This will help avoid creating a vacant building on 30th Street and Balboa Boulevard in the near future. The presence of vacant storefronts has the opposite effect of revitalization.

The commercial use has been on the subject property for over fifty years with no land use conflicts. A laundromat is a visitor-serving use that serves the local community and visitors to the area. The scale of the existing building, and of any potential project that could be developed under the CV designation, is compatible with the nearby two-unit residential uses and promotes a pedestrian scale along 30th Street and Balboa Boulevard.

Coastal Land Use Plan

The subject property is located in the coastal zone and is subject to the applicable goals, objectives, and policies of the Coastal Land Use Plan (Plan). This Plan is created to govern the use of land and water in the coastal zone within the City of Newport Beach and is in accordance with the California Coastal Act of 1976. The subject property has a land use designation of Two-Unit Residential (RT-E). The applicant is requesting to change the current land use designation to Visitor Serving Commercial (CV-A). The subject property does not contain any sensitive coastal resources as it is presently improved with a commercial building, nor is it located where public access easements would be required. The Coastal Act prioritizes land uses, and visitor-serving uses are a higher priority land use than residential use. The continuation of commercial uses and future redevelopment on the subject property as allowed in the CV-A designation will not conflict with the policies of the Coastal Act.

Zoning Code

The R-2 Zoning District is intended to provide for areas appropriate for a maximum of two residential dwelling units located on a single legal lot. The Commercial Visitor-Serving (CV) Zoning District is intended to provide for areas appropriate for the accommodations, goods, and services intended to primarily serve visitors to the City. The primary purpose of the requested amendment is to maintain the existing commercial development. Laundromats are defined as a Personal Services, General land use pursuant to Chapter 20.70 (Definitions) of the Municipal Code, and are allowed by right in the CV Zoning District. Other uses allowed by right include visitor-serving retail, financial institutions, offices, animal grooming, small health/fitness facilities, and postal services, which are compatible uses with the nearby residential uses that would serve residents and visitors to the area.

The stated purpose and intent of the Zoning Code is to carry out the policies of the General Plan. Consistency between the General Plan and zoning designation is critical to ensure orderly development and enforcement. With regard to the subject property, the existing commercial development would conform with the standards of the proposed CV Zoning District and the continued commercial use would be allowed without abatement. Future development would require conformance with applicable development standards.

Under the existing RT designation, the subject property could be developed with a maximum of two (2) residential dwelling units and four (4) parking spaces would be required. Table 1 below demonstrates how the 2,375 square-foot property could be developed under the maximum intensity/density allowance for the CV and R-2 zoning designations as well as the existing development. Pursuant to Chapter 20.40 (Off-Street Parking) of the Municipal Code, parking requirements for the commercial use are calculated at a rate of one (1) space for every 250 square feet of gross floor area, which is the parking rate for retail and personal service uses, but parking requirements vary depending on the use.

Table 1 – Development Standards							
	Front Setback	Rear Setback	Side Setbacks	Maximum Square Footage	Density/Units	Height Limit	Parking Requirement
R-2	5'	5'	3' and 3'	3,230 sf	2	24/29	2 per unit
CV	5'	10'	5' and 0'	1,187.5	NA	26/31	5 spaces (at 1/250)
Existing	0'	40'	12" and 6"	1,175 sf (~0.49 FAR)	0	~12'	4 spaces

Charter Section 423 (Measure S) Analysis

Pursuant to City Charter Section 423 and Council Policy A-18, an analysis must be prepared to establish whether a proposed general plan amendment (if approved) requires a vote by the electorate. The proposed amendment would be combined with 80 percent of the increases in traffic, dwelling units, and non-residential floor area created by previous general plan amendments (approved within the preceding 10 years) within the same statistical area. If any of the thresholds are exceeded and the City Council approves the requested General Plan Amendment, the amendment would be classified as a "major amendment" and be subject to voter consideration. Approved amendments, other than those approved by the electorate, are tracked for 10 years and factored into the analysis of future amendments as indicated.

Since the adoption of the General Plan in 2006, two (2) General Plan amendments have been approved by the City Council within Statistical Area B5 where the subject property is located. The first amendment was to bring consistency between the General Plan and Coastal Land Use Plan for seven (7) properties. The second amendment was to change the land use designation from residential to commercial for a property developed with a commercial building.

Table 2 below summarizes the changes created by the proposed amendments with the recommended CV designation. The table also shows threshold totals for the subject property. As indicated, none of the four (4) thresholds would be exceeded, and therefore, a vote is not required. A more detailed analysis is attached (Attachment No. PC 4).

Table 2: Charter Section 423 Analysis Summary Statistical Area B5				
	Allowed Floor Area	A.M. Peak Hour Trips	P.M. Peak Hour Trips	Increase in Allowed Dwelling Units
Prior Amendments (80%)	15,325 sf	46.48	61.87	1
Proposed GP2011-010	1,187.5 sf	2.68	3.67	-2
Total	16,512.5	49.16	65.54	0

SB18 Tribal Consultation Guidelines

Pursuant to Section 65352.3 of the California Government Code, a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (NAHC) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources. The City received comments from the NAHC indicating that seven (7) tribe contacts should be provided notice regarding the proposed project. The appropriate tribe contacts supplied by the NAHC were provided notice on December 16, 2011. Section 65352.3 of the California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period.

The project site is located in a geographic feature which was significantly modified during the last century in order to alter channels for navigation (Newport Harbor) and form habitable islands. The Balboa Peninsula area was created after the era of Native American settlement and has been subject to significant landform alteration. The City has not yet received any responses although the review period remains open. The Planning Commission may recommend approval of the proposed project to City Council at this time. However, the City Council may not act on the proposed amendments until the tribe review period is concluded. Given that the site is presently developed and that the no development is proposed at this time, staff does not anticipate any conflicts or need for monitoring by the tribes. If any comments are received from the tribes, they will be forwarded to the City Council for consideration.

Summary

The applicant has requested the amendment to allow retention of the existing commercial use and structure. The building was constructed prior to 1953. The laundromat use has been in existence for around 50 years and its abatement at this time seems contrary to the General Plan Policies that promote revitalization of the area. Continuation of these uses and future development consistent with the CV designation

does not appear to conflict with the General Plan or Coastal Land Use Plan or Coastal Act. Staff does not foresee any adverse environmental impacts with continued use. The approval of the General Plan Amendment to CV designation would not necessitate a vote of the electorate, as required by Section 423 of the City Charter.

Alternatives

The Planning Commission could also deny the application, retaining the existing land use designations as Two-Unit Residential (see Attachment No. PC 2 for draft Resolution for denial). Such action could require abatement of the existing nonresidential use in accordance with the provisions of Zoning Code Section 20.38.100 (Nonconforming Uses and Structures).

Alternatively, the Planning Commission could recommend approval of a land use designation other than Visitor Serving Commercial.

Environmental Review

The proposed amendments are exempt since they do not entail any significant alteration to the subject property and will bring the General Plan Land Use, Coastal Land Use, and Zoning District designations consistent with the present use of the subject property. The site is presently developed and no development is proposed at this time; therefore, the project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

Public Notice

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

Prepared by:

Submitted by:

Fern Nueno, Assistant Planner

Brenda Wisneski, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution - Approval

PC 2 Draft Resolution - Denial

PC 3 Land Use Change Map

PC 4 Charter Section 423 Analysis

Tmplt: 06/22/11

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Attachment No. PC 1

Draft Resolution - Approval

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL APPROVAL OF GENERAL PLAN AMENDMENT NO. GP2011-010, COASTAL LAND USE PLAN AMENDMENT NO. LC2011-006, AND ZONING CODE AMENDMENT NO. CA2011-013 FOR PROPERTY LOCATED AT 200 30TH STREET (PA2011-209)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Pete Fenton, representing Beach Coin Laundry LLC, with respect to property located at 200 30th Street, and legally described as Lot 1, Block 129 of the Lake Tract, requesting approval of a General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.
- The applicant proposes to change the General Plan Land Use Element category from Two-Unit Residential (RT) to Visitor Serving Commercial (CV), the Coastal Land Use Plan designation from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A), and the Zoning District from Two-Unit Residential (R-2) to Commercial Visitor-Serving (CV) for the subject property, which will result in the existing nonconforming commercial use becoming conforming.
- 3. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update"), resulting in the land use designation of the subject property as Two-Unit Residential.
- 4. On November 13, 2007, the City Council adopted Resolution No. 2007-71, approving Coastal Land Use Plan Amendment No. LC2007-001 making the Coastal Land Use Plan consistent with the General Plan Update. The Coastal Land Use Plan designation for the property was Two-Unit Residential.
- On January 28, 2008, the City Council adopted an ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
- 6. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The two unit residential zoning designation of the subject property was changed from Two Family Residential (R-2) District to Two-Unit Residential (R-2). Since the use of the subject property is a

- commercial use in a residential zone, it was subject to abatement in accordance with Ordinance No. 2008-05.
- 7. The subject property is located within the coastal zone. The requested change of the Coastal Land Use Plan designation is from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A) and will not become effective until the amendment to the Coastal Land Use Plan is approved by the Coastal Commission.
- 8. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required: if the project generates more than 100 peak hour trips (AM or PM); adds 40,000 square feet of non-residential floor area; or, adds more than 100 dwelling units in a statistical area.
- 9. This is the third General Plan Amendment that affects Statistical Area B5 since the General Plan update in 2006. Although there is no increase in the number of dwelling units, the amendment results in 1,187.5 additional square feet of non-residential floor area. The additional floor area results in an increase of 2.68 AM peak hour trips and an increase 3.67 PM peak hour trips based on the commercial and residential housing trip rates reflected in Council Policy A-18. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
- 10. A public hearing was held on February 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- 1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act ("CEQA") under Class 1 (Existing Facilities).
- 2. The proposed amendments are exempt since they do not entail alteration to the subject property and are bringing the General Plan land use designation, Coastal Land Use Plan designation and Zoning district into consistency with the exiting development and use of the property.
- 3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

- 1. Amendments to the General Plan and Coastal Land Use Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
- 2. Zoning Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare.
- 3. The amendments of the Land Use Element of the General Plan and the Coastal Land Use Plan will provide consistency with the proposed Code Amendment to change the zoning of the subject property from Two-Unit Residential (R-2) to Visitor Serving Commercial (CV).
- 4. The existing building and uses, and future development of the property affected by the proposed amendments will be consistent with the goals and policies of the Land Use Element of the General Plan and the Coastal Land Use Plan; and will be consistent with the purpose and intent of the Commercial Visitor-Serving (CV) zoning district of the Newport Beach Municipal Code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby recommends City Council approval of General Plan Amendment No. GP2011-010, and Coastal Land Use Plan Amendment LC2011-006, changing the designation from Two-Unit Residential (RT and RT-E) to Visitor Serving Commercial (CV and CV-A) and recommends approval of the request for Code Amendment No. CA2011-012 changing the zoning designation from Two-Unit Residential (R-2) to Commercial Visitor-Serving (CV), affecting 200 30th Street, Statistical Area B5, and legally described as Lot 1, Block 129 of the Lake Tract, in the City of Newport Beach, County of Orange, State of California.
- 2. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner related (directly or indirectly) to City's approval of the proposed Beach Coin Laundry, LLC Property Amendments (PA2011-209) including, but not limited to, General Plan Amendment No. GP2011-010, Coastal Land Use Plan Amendment LC2011-006, and Code Amendment No. CA2011-013. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and

other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF FEBRUARY, 2012.

ATES.
NOES:
ABSTAIN:
ABSENT:
BY:
BY:Fred Ameri, Secretary

AVEC.

Attachment No. PC 2

Draft Resolution - Denial

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING GENERAL PLAN AMENDMENT NO. GP2011-010, COASTAL LAND USE PLAN AMENDMENT NO. LC2011-006, AND ZONING CODE AMENDMENT NO. CA2011-013 FOR PROPERTY LOCATED AT 200 30TH STREET (PA2011-209)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Pete Fenton, representing Beach Coin Laundry LLC, with respect to property located at 200 30th Street, and legally described as Lot 1, Block 129 of Lake Tract, requesting approval of a General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.
- The applicant proposes to change the General Plan Land Use Element category from Two-Unit Residential (RT) to Visitor Serving Commercial (CV), the Coastal Land Use Plan designation from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A), and the Zoning District from Two-Unit Residential (R-2) to Commercial Visitor-Serving (CV) for the subject property, which will result in the existing nonconforming commercial use becoming conforming.
- 3. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update"), resulting in the land use designation of the subject property as Two-Unit Residential.
- 4. On November 13, 2007, the City Council adopted Resolution No. 2007-71, approving Coastal Land Use Plan Amendment No. LC2007-001 making the Coastal Land Use Plan consistent with the General Plan Update. The Coastal Land Use Plan designation for the property was Two-Unit Residential.
- On January 28, 2008, the City Council adopted an ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009.
- 6. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The two unit residential zoning designation of the subject property was changed from Two Family Residential (R-2) District to Two-Unit Residential (R-2). Since the use of the subject property is a

- commercial use in a residential zone, it was subject to abatement in accordance with Ordinance No. 2008-05.
- 7. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The result of that action rendered commercial uses located within residential districts nonconforming. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.
- 8. The subject property is located within the coastal zone. The requested change of the Coastal Land Use Plan designation is from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A) and will not become effective until the amendment to the Coastal Land Use Plan is approved by the Coastal Commission.
- 9. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required: if the project generates more than 100 peak hour trips (AM or PM); adds 40,000 square feet of non-residential floor area; or, adds more than 100 dwelling units in a statistical area.
- 10. This is the third General Plan Amendment that affects Statistical Area B5 since the General Plan update in 2006. Although there is no increase in the number of dwelling units, the amendment results in 1,187.5 additional square feet of non-residential floor area. The additional floor area results in an increase of 2.68 AM peak hour trips and an increase 3.67 PM peak hour trips based on the commercial and residential housing trip rates reflected in Council Policy A-18. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
- 11. A public hearing was held on February 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. FINDINGS.

1. Amendments to the General Plan and Coastal Land Use Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments. The Planning Commission has determined

that in this particular case that the current General Plan and Coastal Land Use Plan designations are appropriate and a change is not warranted.

- Zoning Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare. The Planning Commission has determined that in this particular case, that the current Zoning designation is appropriate and that a change is not necessary for the public necessity and convenience and the general welfare.
- 3. The existing nonresidential use is not consistent with the goals and policies of the Land Use Element of the General Plan, the Zoning District requirements or the Coastal Land Use Plan; and therefore will be subject to abatement in accordance with Ordinance No. 2008-05.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

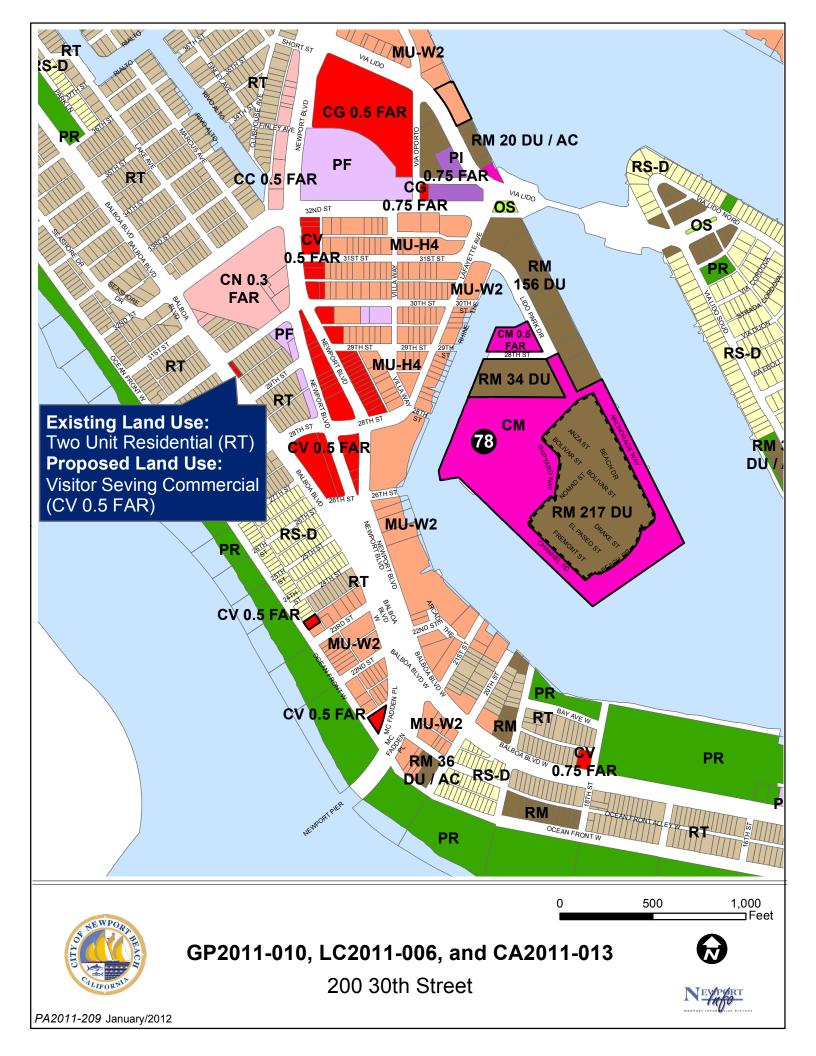
- 1. The Planning Commission of the City of Newport Beach hereby denies General Plan Amendment No. GP2011-010, Coastal Land Use Plan Amendment No. LCP2011-006, and Zoning Code Amendment No. CA2011-013.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF FEBRUARY, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:
BY: Michael Toerge, Chairman
BY:Fred Ameri, Secretary

Attachment No. PC 3

Land Use Change Map



Attachment No. PC 4

Charter Section 423 Analysis

Beach Coin Laundromat Amendment (PA2011-209)
Charter Section 423 Analysis

Address	Description	Current GP	Current density	Current Intensity/floor area	Existing Traffic Land Use Description	Existing AM	Existing PM	Proposed GP	Proposed density	Proposed Intensity/Floor Area	Proposed Traffic Land Use Description	Proposed AM	Proposed PM	AM Change	PM Change	tal du anges	Total square footage changes
PREVIOUSLY APPROVED GENER	 RAL PLAN AMENDMENT NO) D. GP2010-0	05 - STATIST	CAL AREA B5													
2102 W. Ocean Front (Map ID 4)	6,713-square-foot lot fully developed with a two-story 11-room hotel The Dorymans Inn	MU-W2	4	3356.5	#220 - Apartment (0.51AM/0.62PM trips per unit) & Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	12.11	15.91	CV 0.5	0	3,357	Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	10.07	13.43	-2.04	-2.48	-4	(
2306 W. Ocean Front (Map ID 6)	3,750-square-foot lot is fully developed with a 15- room hotel The Newport Beachwalk Hotel	MU-W2	1	1875	#220 - Apartment (0.51AM/0.62PM trips per unit) & Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	6.14	8.12	CV 0.5	0	1,875	Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	5.63	7.50	-0.51	-0.62	-1	C
3366 Via Lido (Map ID 2)	21,576-square-foot lot is fully developed with a two- story office building and a parking lot	RM	9	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	3.96	4.86	MU-W2	13	15,103	#220 - Apartment (0.51AM/0.62PM trips per unit) & Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	51.94	68.47	47.9796	63.6128	4	15,103
Lido Peninsula																	
670 Lido Park Dr. (Map ID 7a)	33,050-square-foot lot is fully developed with restaurants/shops on Rhine	MU-W3	unallocated, part of Lido Peninsula subtotal	unallocated, part of Lido Peninsula subtotal	see Lido Peninsula subtotal below	included in Lido Peninsula subotal	included in Lido Peninsula subotal	CM 0.5	0	16,525	Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	49.6	66.1	NA	NA	NA	NA
700 Lido Park Dr. (Map ID 7b)	34 dwelling units on a 88,546-square-foot lot	MU-W3	unallocated, part of Lido Peninsula subtotal	unallocated, part of Lido Peninsula subtotal	see Lido Peninsula subtotal below	included in Lido Peninsula subotal	included in Lido Peninsula subotal	RM 34 du	34	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	15.0	18.4	NA	NA	NA	NA
710 Lido Park Dr. (Map ID 7c)	200+ dwelling units on an approximate 386,347 square-foot site	MU-W3	unallocated, part of Lido Peninsula subtotal	unallocated, part of Lido Peninsula subtotal	see Lido Peninsula subtotal below	included in Lido Peninsula subotal	included in Lido Peninsula subotal	RM 217 du	217	0	#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per lunit)	95.5	117.2	NA	NA	NA	NA
101-351 Shipyard Way (Map ID 7d)	Shipyard, marine facilites, commercial on approximately 527,182 square-foot site	MU-W3	unallocated, part of Lido Peninsula subtotal	unallocated, part of Lido Peninsula subtotal	see Lido Peninsula subtotal below	included in Lido Peninsula subotal	included in Lido Peninsula subotal	CM (anomaly #78)	0	139,840	Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	419.5	559.4	NA	NA	NA	NA
Lido Peninsula subtotal			251		#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit) & Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1.000sf)	579.5	761		251	156,365		579.5	761.0	0	0	0	(
PREVIOUSLY APPROVED GENER	RAL PLAN AMENDMENT NO	O. GP2010-0	03 - STATIST	CAL AREA B5	1,000017												
	8,106 square-foot lot is fully developed with a 4,105 square-foot commercial building	RM	3	0	#220 - Apartment (0.51 AM & 0.62 PM trips per Dwelling Unit)	1.53	1.86	MU-V	4	1	#220 - Apartment (0.51 AM & 0.62 PM trips per unit) & Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	14.20	18.69	12.67	16.83	1	4,053.00
Previous Amendments Total			268	161596.5		603	792		268	180,752.7		661	869	58.10	77.34	1	19,156
(100%) 80% of Previous Amendments														46.48	61.87	1	15,325
PROPOSED GENERAL PLAN AME	2,735 square-foot lot	IU - STATIST	I ICAL AREA B	1	#230 -						Commercial blanded rate						
200 30th Street	developd with a 1,175 sfquare-foot commercial building	RT	2		#230 - Residential/Condominium Townhouse (0.44AM/0.54PM trips per unit)	0.88	1.08	CV 0.5	0	1,187.50	Commercial blended rate per Council Policy A-18 (3.0 AM & 4.0 PM trips per 1,000sf)	3.56	4.75	2.68	3.67	2	1,187.50
Total for 80% of previous amendments and proposed amendment														49.16	65.54	0	16,512.46
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01/31/2012 Page 1 of 1

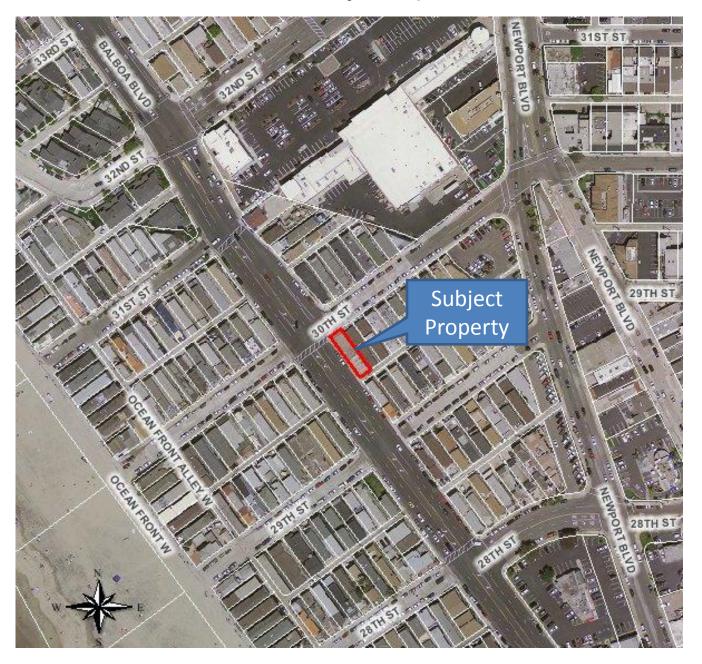
BEACHCOIN LAUNDROMAT AMENDMENTS

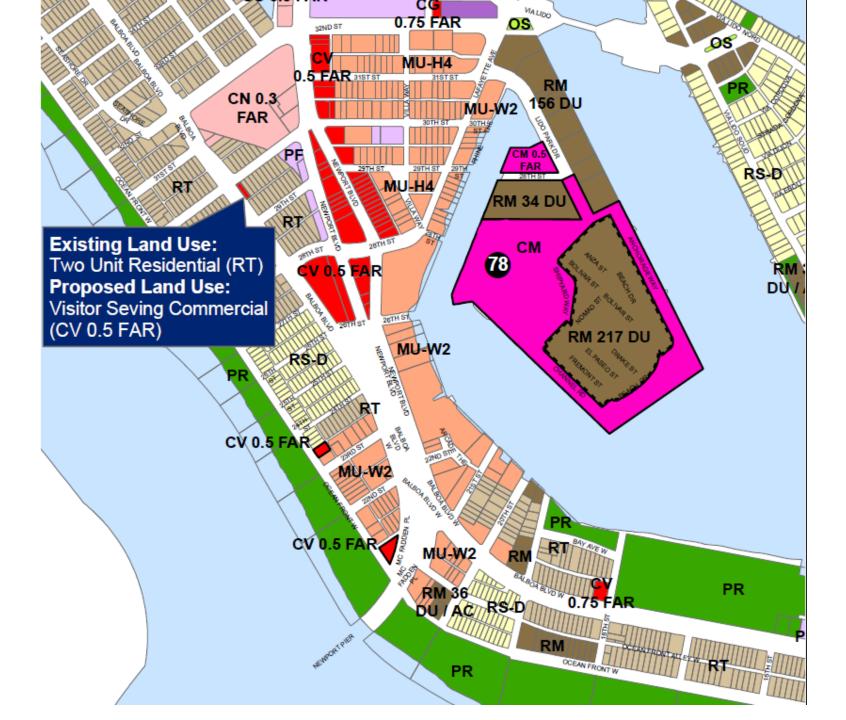
200 30th Street (PA2011-209)

Planning Commission
Public Hearing
February 9, 2012



Vicinity Map





Development Standards

	R-2	CV	Existing
Front Setback	5'	5'	0'
Rear Setback	5'	10'	40'
Side Setbacks	3' and 3'	5' and 0'	12" and 6"
Maximum Square Footage	3,230	1,187.5	1,175 (~0.49 FAR)
Density/Units	2	NA	0
Height Limit	24/29	26/31	~12'
Parking Requirement	2 per unit	5 spaces (at 1/250)	4 spaces

Subject Property 200 30th Street



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

February 9, 2012 Meeting Agenda Item 5

SUBJECT: Alternative Setback Determination - (PA2012-001)

1702 Park Avenue

Staff Approval No. SA2012-001

APPLICANT: William Scott Brown

PLANNER: Kay Sims, Assistant Planner

(949) 644-3237, ksims@newportbeachca.gov

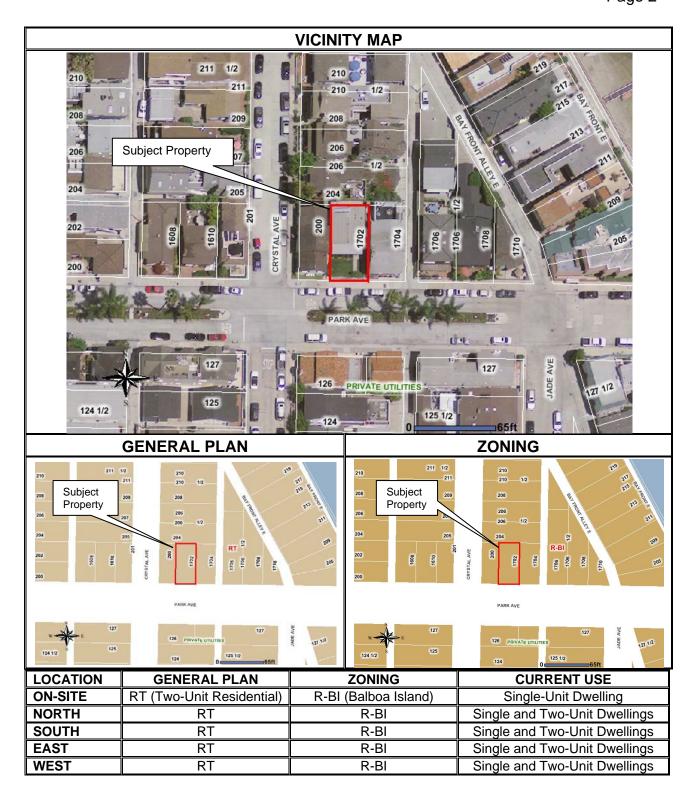
PROJECT SUMMARY

The applicant is requesting an alternative setback determination for property located at 1702 Park Avenue to accommodate redevelopment of the site. The applicant is requesting that the following setbacks be established:

- Front (Along Park Avenue) 6 feet
- Sides 3 feet
- Rear (Opposite Park Avenue) 3 feet

RECOMMENDATION

- 1) Conduct a public hearing; and
- Approve Alternative Setback No. SA2012-001 with the attached Alternative Setback Determination letter (Attachment No. PC 1) that would establish the following setbacks:
 - Front 6 feet
 - Sides 3 feet
 - Rear 5 feet



INTRODUCTION

Project Setting

The 1,800 square-foot property (30 feet by 60 feet) is located adjacent to the northerly side of Park Avenue near the intersection of Park and Crystal Avenues. The topography of the site is relatively flat. It is currently developed with a small, one story, single-unit dwelling, which is nonconforming because it encroaches into the required rear, westerly-side, and the front setback areas. Also, there are no parking spaces provided on the site.

Project Description

Pursuant to Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location) of the Zoning Code, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity. Strict application to the subject property of the default setback regulations for an R-BI (Balboa Island) property results in a floor area limit lower than other properties in the vicinity. The Community Development Director has referred this application to the Planning Commission for review and action.

The setbacks required by the Zoning Code are 20 feet from the front property line (adjacent to Park Avenue), 3 feet on the sides, and 10 feet in the rear (opposite of Park Avenue). The resulting buildable area¹ of the lot is 720 square feet. The requested setbacks are 6 feet in the front along Park Avenue, 3 feet on the sides, and 3 feet in the rear (opposite of Park Avenue) resulting in a buildable area of 1,224 square feet.

Background

The subject property and surrounding area (Section 5 of Balboa Island) was originally subdivided in 1912 (Attachment No. PC 4). At that time, all the lots within the subject block (Block 5) were oriented towards Crystal Avenue. Vehicular access was intended to be provided from the alley along the rear of the properties. Subsequent to the original subdivision, lots one and two within Block 5 were re-oriented to face Park Avenue, which resulted in three 30 feet by 60 feet properties. As a result of the re-orientation, two of the properties no longer have access to the alley.

Although the three reoriented lots are subject to the 20 foot front setback required by the Zoning Code, each is developed within approximately three feet of the front property

¹ "Buildable area" is defined by Chapter 20.70 (Definitions) of the Zoning Code as the area of a development site, excluding the minimum front, side, and rear setback areas as applied to residential properties only.

line and are, therefore, nonconforming. Permits for the existing development on the three lots could not be located in the City's records.

DISCUSSION

Analysis

To determine whether the proposed setbacks are appropriate, staff analyzed: 1) the compatibility of the proposed setbacks with the required setbacks on lots within the surrounding area; and 2) the resulting true floor area ratio (maximum building square footage allowed divided by lot size) to ensure that the proposed setbacks do not result in additional floor area as compared with neighboring lots with typical lot configurations.

Setback Compatibility

The front (6 feet) and side (3 feet) setbacks requested are compatible with the existing setbacks of the immediately adjacent properties, which have been developed to within approximately 3 feet of the front property line. The requested three foot rear setback is similar to a required 3 foot side setback because the rear yard of the subject property abuts the side of the neighboring property (204 Crystal). Staff recommends a five foot rear setback to provide more useable rear yard area.

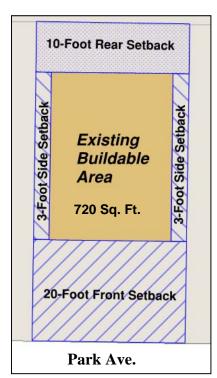


Exhibit 1, existing buildable area with required setbacks

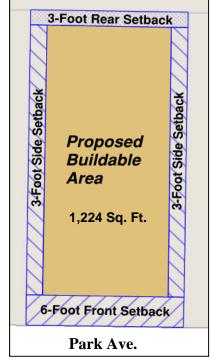


Exhibit 2, proposed setbacks and resulting buildable area

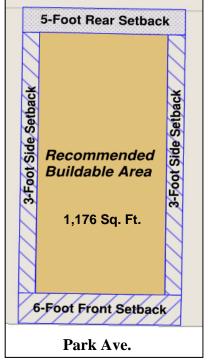


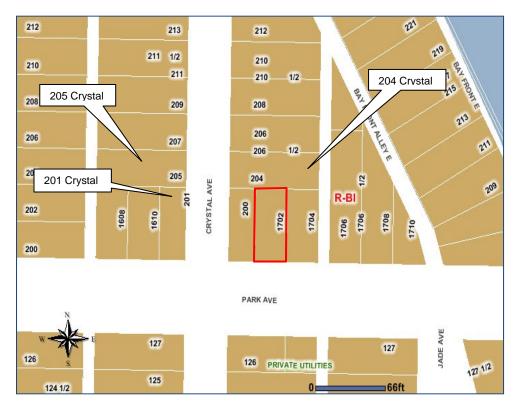
Exhibit 3, recommended setbacks and resulting buildable area

FAR Comparison

Due to the difference in lot size and variation in setback areas between the subject property and surrounding lots in the area, staff has employed a true floor area ratio (FAR) method by which the total building square footage allowed on the site is divided by the total site area. This method allows for an equitable comparison of floor area to lot area.

FAR Analysis Table

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Existing Setbacks F-10, S–3, R-10)	1,800	720	1,080 + 200 = 1,280	.71
(Requested Setbacks F-6, S-3, R-3)		1,224	1,836 + 200 = 2,036	1.13
(Recommended Setbacks F-6, S-3, R-5)		1,176	1,764 + 200 = 1,964	1.09
Neighboring Lots				
2.) 204 Crystal (F-8, S-3, R-5)	2,550	1,728	2,592 + 200 = 2,792	1.09
3.) 201 Crystal (Variance No. VA2007-004)	1,500		1,760	1.17
4.) 205 Crystal (F-6, S-3, R-5)	2,550	1,776	2,664 + 200 = 2,864	1.12



Because the properties immediately adjacent to the east and west of the subject property have also been reoriented and, as a result, have similarly reduced buildable areas, staff has not included those properties in this FAR analysis. Properties which are representative of the typical lot size and configuration within the surrounding area were used and are included in the FAR Analysis Table.

The typical lot size in the surrounding area is 2,550 square feet (30 feet by 85 feet). North of Park Avenue, lots facing the east side of Crystal Avenue have 8 foot front setbacks, those on the west side of Crystal have 6 foot front setbacks. The typical lot on the east side of Crystal Avenue (204 Crystal) has an FAR of 1.09. The typical lot on the west side (205 Crystal) has an FAR of 1.12. Staff also included 201 Crystal in the analysis, as representative of a reoriented property similar to the subject property, which had a reduced buildable area when the default setbacks for the RB-I (Balboa Island) were applied. A variance (VA2007-004) was approved in 2007 to allow a larger buildable area for development, that resulted in an FAR of 1.17 allowed for the property.

The setbacks requested for the subject property result in an FAR of 1.13, which is less than that approved by variance for 201 Crystal Avenue. The proposed FAR is also slightly larger than those of typical lots facing both sides of Crystal Avenue, which are 1.12 FAR (205 Crystal Avenue) and 1.09 FAR (204 Crystal Avenue). Staff recommends a rear setback of 5 feet, which would allow a 1.09 FAR that is the same as the typical lots located within the subject block (Block 5).

Summary

Staff believes the requested front, side, and rear setbacks are compatible with the nearby lots. As illustrated in the FAR Analysis Table, the requested setbacks result in an FAR of 1.13, which is consistent with the FAR granted with approval of a variance for a similarly reoriented lot in the immediate area. This FAR, however, is slightly larger than typical lots within the subject block. Therefore, staff has recommended a rear setback of 5 feet, which would allow for a more usable rear yard area and would result in an FAR (1.09), that is the same as the typical lot within the subject block (Block 5).

<u>Alternatives</u>

Should the Planning Commission find the alternative setbacks requested by the applicant or recommended by staff to be unreasonable, the Planning Commission should either prescribe more appropriate setbacks for the property or determine the property should be subject to the default setbacks required for residential properties within the R-BI (Balboa Island) Zoning District.

Environmental Review

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent (%), which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The Alternative Setback Determination does not constitute a major change which would require environmental review.

Public Notice

Although not required by the Municipal Code, notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property (excluding roads and waterways) and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. The item also appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

Kay Sims,

Assistant Planner

renda Wisneski

Deputy Community Development Director

ATTACHMENTS

PC 1 Draft Planning Commission Resolution Exhibit "A" Alternative Setback Determination Letter

PC 2 Applicant's Request

PC 3 Site Survey

PC 4 Original Tract Map: Section 5, Balboa Island

PC 5 Photos

PC 6 Portions of Variance No. VA2007-004 (201 Crystal Avenue)

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Attachment No. PC 1

Draft Planning Commission Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING SA2012-001 FOR AN ALTERNATIVE SETBACK DETERMINATION FOR THE PROPERTY LOCATED AT 1702 PARK AVENUE (PA2012-001)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by William Scott Brown, with respect to property located at 1702 Park Avenue, and legally described as Balboa Island SEC 5 LOT 1 BLK 5 WLY 30 FT ELY 60 FT AND WLY 30 FT ELY 60 FT LOT 2 BLK 5.
- 2. The applicant requests approval of an Alternative Setback Determination. The requested setbacks are: Front 6 feet, Sides 3 feet, and Rear 3 feet (see Exhibit "A", Alternative Setback Determination Letter).
- 3. The subject property is located within the Balboa Island (RB-I) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
- 4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E).
- 5. A public hearing was held on February 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- 1. The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines Class 5 (Minor Alterations in Land Use Limitations), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent (%), which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. The Alternative Setback Determination does not constitute a major change which would require environmental review.
- 2. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial

challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

Section 20.30.110.C, <u>Alternative Setback Area Location</u> of the Newport Beach Municipal Code states the following:

"In cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Director may redefine the location of the front, side, and rear setback areas to be consistent with the surrounding properties,"

Pursuant to Section 20.30.110.C, the following findings are set forth.

Findings:

- A. The subject property and adjacent properties have been re-subdivided and are not consistent with the orientation of the original subdivision and many lots within the surrounding area and within the subject block (Block 5, Section 5, Balboa Island).
- B. The application of the standard R-BI (Balboa Island) setbacks will result in an FAR substantially lower than other lots in the vicinity and in the R-BI Zoning District.
- C. The application of the approved alternative setbacks will allow development on the property, which will be more consistent with the scale and floor area ratio (FAR) allowed on other properties within the R-BI Zoning District and the subject block (Block 5, Section 5, Balboa Island).

SECTION 4. DECISION.

To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 1702 Park Avenue Alternative Setbacks including, but not limited to, the SA2012-001 (PA2012-001). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby approves SA2012-001, as recommended by staff, subject to the setbacks set forth in Exhibit A, which is attached hereto and incorporated by reference.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS FEBRUARY 9, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:
BY:
Michael Toerge, Chairman
BY: Fred Ameri, Secretary
rica Ameri, decretary

Tmplt: 12/15/2011

Exhibit "A"

Draft Alternative Setback Determination Letter

CALIFORNIA CALIFORNIA CALIFORNIA

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663 (949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

DETERMINATION OF ALTERNATIVE SETBACK AREA LOCATIONS

SA2012-001 (PA2012-0019)

Date: February 9, 2012

Site address: 1702 Park Avenue

Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location):

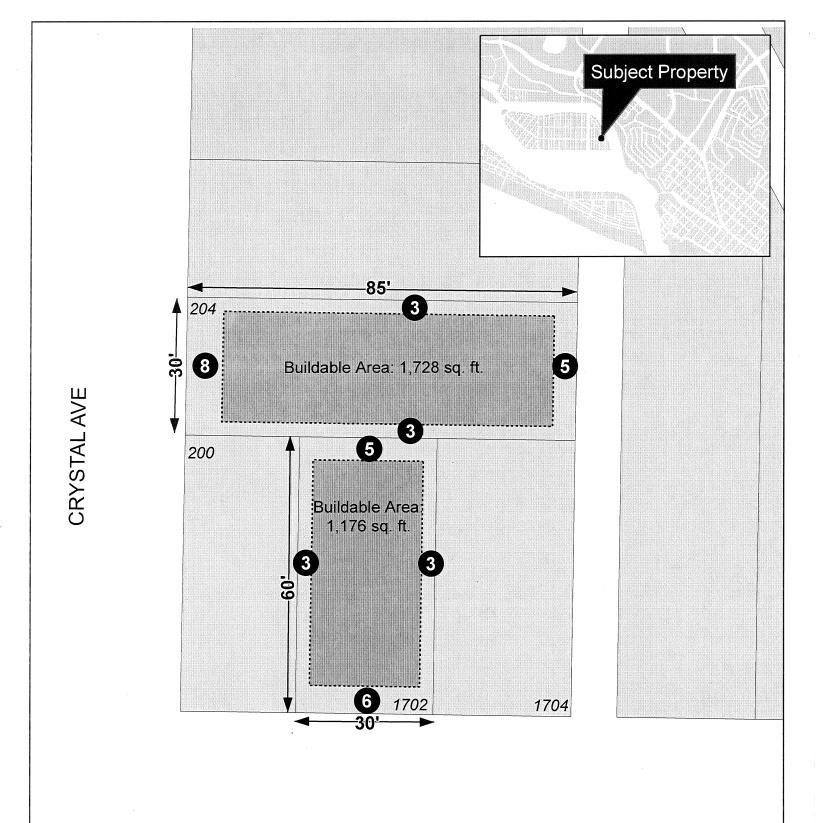
In cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the [Community Development] Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. The reorientation of setback areas is not applicable to the bluff overlay district.

In this case the Community Development Director elected to refer this request to the Planning Commission which established the following alternative setbacks:

Yard	Setback	Description
Front	6'	Park Avenue
Side	3'	Adjacent to 200 Crystal Avenue
Side	3'	Adjacent to 1704 Park Avenue
Rear	5'	Opposite to Front (Park Avenue)

On	behalf of Michael Toerge, Chairman
Ву:	
	Fred Ameri, Secretary

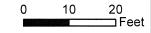
Attachment: Setback Exhibit



PARK AVE



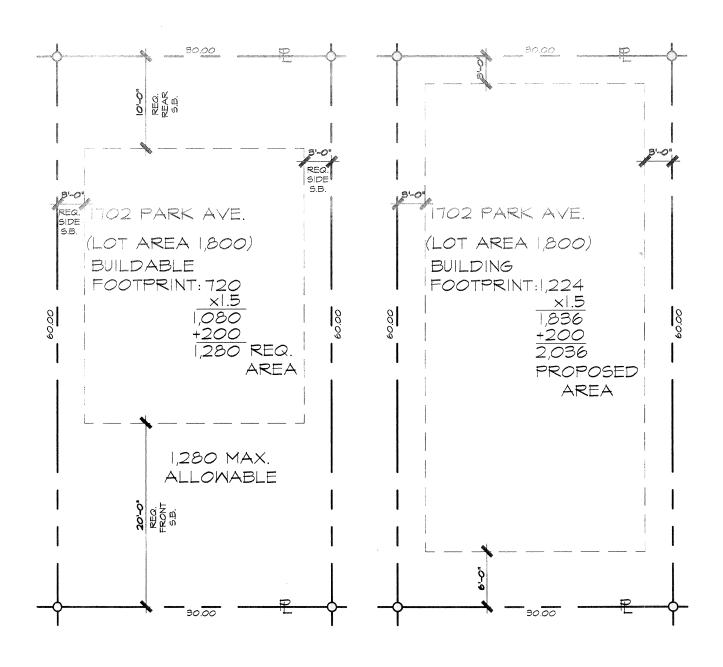
1702 Park Avenue - PA2012-001
Determination of Alternative
Setback Area Locations





Attachment No. PC 2

Applicant's Request



PARK AVENUE

EXISTING REQUIREMENTS



PARK AVENUE

PROPOSED SETBACK ALTERATION

PROPOSED NEW RESIDENCE

SQUARE FOOTAGE:

FIRST FLOOR PLAN:

68 S.F.

SECOND FLOOR PLAN:

903 S.F.

THIRD FLOOR PLAN:

481 S.F.

TOTAL:

1,452 S.F.

GARAGE:

584 S.F.

TOTAL AREA W/GARAGE:

2,036 S.F.

DECK 2: DECK 3:

124 S.F.

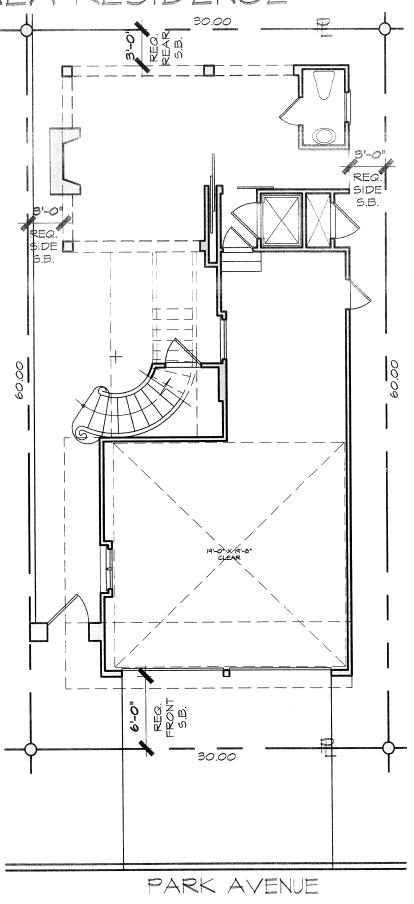
196 S.F.

BUILDABLE LOT AREA: 1,224 x 1.5 = 1836

+ 200 = 2,036 MAX. ALLOWABLE

PA2012-001 for SA2012-001 1702 Park Avenue William Guidero

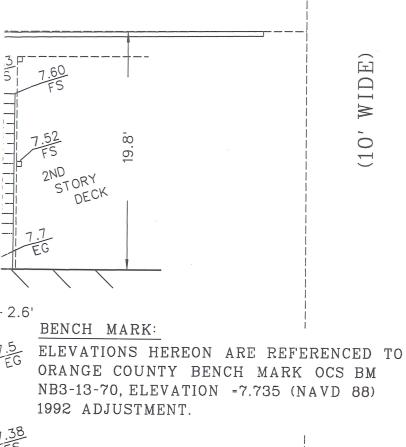




SITE and

SCALE: 1/8" = 1'-0"

Attachment No. PC 3
Site Survey



TWO STORY

WOOD RESIDENCE

(60' WIDE)

LEGEND:

FF FINISHED FLOOR

FS FINISHED SURFACE

EG EXISTING GRADE

FL FLOW LINE

TC TOP OF CURB

TW TOP OF WALL

CONC CONCRETE

NPS NO PARKING SIGN

WF WOOD FENCE

GM GAS METER

WH WATER HEATER

G GATE

BW BACK OF WALK

S STEP

EM ELECTRICAL METER

P/L PROPERTY LINE



DOUGLAS O. FOSTER P.L.S. 4598

TOPOGRAPHIC SURVEY OF THE E'LY 30 FEET OF THE W'LY 55 FEET OF LOTS 1 & 2, BLOCK 5, MAP OF SECTION FIVE, BALBOA ISLAND, NEWPORT BEACH, PER M.M. 8/9 RECORDS OF ORANGE COUNTY, CA.

SCALE: 1"=8"
DATE: 01-08-2012

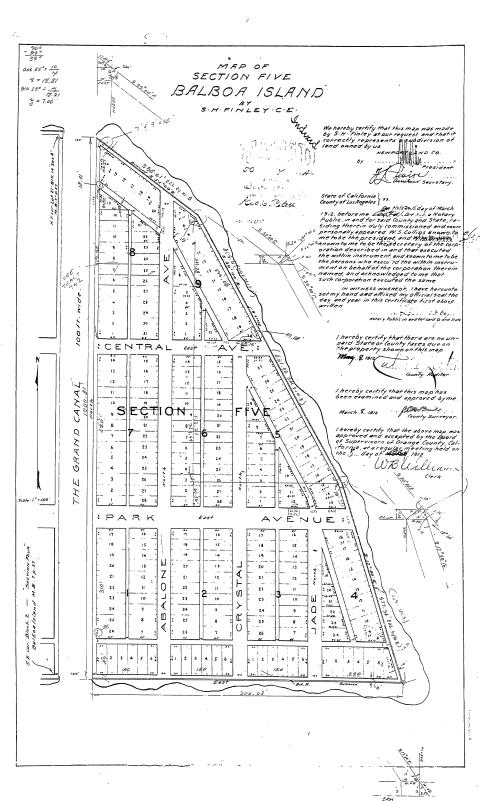
ARCHITECT:
WILLIAM BELDEN GUIDERO
REVISED:

BACK BAY SURVEYING & MAPPING

2338 TUSTIN AVENUE NEWPORT BEACH, CA. 92660

Attachment No. PC 4

Original Tract Map: Section 5, Balboa Island



BALBOA IS SECTION FIN

1"= 80

 $\cos X = 17'30'' = \frac{10}{V}$ A = 10.48 $\sin X = 17'30'' = \frac{3}{10.48}$ 9 = 3.15

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Attachment No. PC 5

Photos













Attachment No. PC 6

Portions of Variance No. VA2007-004 (201 Crystal Avenue)



CITY OF NEWPORT BEACH

PLANNING DEPARTMENT

NOTICE OF FINAL APPROVAL

DATE:

March 6, 2008

TO:

Mr. Peter Ferrarini

FROM:

Planning Director

SUBJECT:

Variance VA2007-004 and Modification Permit MD2007-078

Please be advised that an amendment to Variance VA2007-004 and Modification Permit MD2007-078 were approved by the Planning Commission at its meeting of April 17, 2008 and became effective May 1, 2008. A copy of the approved Resolution with findings and conditions is enclosed. Any deviation from the application(s) and plans on file in the Planning Department may require an amendment to the application(s) mentioned above for the project.

Applicant:

Ferrarini residence (PA2007-214)

Location:

201 Crystal Avenue

Description:

A request to approve a variance to permit a new single-family dwelling to exceed the maximum permitted floor area limitation. Additionally, the request is for a modification permit to allow the encroachment of the new single-family dwelling into the required setbacks as follows: 14-feet 8-inches into the 20-foot front yard setback adjacent to Park Avenue; 1-foot into the 3-foot side yard setback for a portion of the garage on the northeast side along Crystal Ave; 7-feet into the 10-foot rear yard setback, and 4 feet into the reversed corner, 6-foot setback for the rear 20 feet of

the northeasterly corner along Crystal Avenue.

Should you have any questions, please contact our office at (949) 644-3221.

Very truly yours,

PLANNING DEPARTMENT

David Lepo, Director

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Executive Secretary Planning Commission

Enclosure:

By

Approved Resolution with Findings and Conditions of Approval

cc: Property Owner (if not applicant)

RESOLUTION NO. 1755

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. 2007-004 AND MODIFICATION PERMIT NO. 2007-078 FOR PROPERTY LOCATED AT 201 CRYSTAL AVENUE (PA 2007-214)

WHEREAS, an application was filed by Brad Smith on behalf of Mr. Peter Ferrarini, property owner, with respect to property located at 201 Crystal Avenue, and legally described as the Lot 27, Block 6 E 25 ft and 25 ft Lot 28, Block 6 Track 103 in Balboa Island Section 5, requesting approval of a variance to permit a new single-family dwelling to exceed the maximum permitted floor area limitation. Additionally, the request for approval is for a modification permit to allow the encroachment of the new, single family dwelling into the required setbacks as follows: 14 feet 8 inches into the 20-foot front yard setback adjacent to Park Avenue; 1 foot into the 3-foot side yard setback for a portion of the garage on the northeast side along Crystal Ave; 7 feet into the 10-foot rear yard setback, and 4 feet into the reversed corner 6-foot setback for the rear 20 feet of the northeasterly corner along Crystal Avenue; and

WHEREAS, a public hearing was held on March 6, 2008 in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the aforesaid meeting was given. The application, plans, a staff report and evidence, both written and oral, was presented to and considered by the Planning Commission at this meeting; and

WHEREAS, the Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The proposed single-family residential structure is consistent with this designation; and

WHEREAS, the subject property is designated Two-Family Residential (RT) by the 2006 General Plan Land Use Element and zoned R1.5 (Two-Family Residential). The proposed single-family dwelling is consistent with these designations; and

WHEREAS, the modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The Zoning Code requires default setbacks for the subject property to be a minimum 20-foot front yard, 10-foot rear yard, and 3-foot side yards.
- The Zoning Code requires that the side yard on the rear 20 feet of the street side of a corner lot, where there is reversed frontage, shall not be less than the front yard required on the adjacent reversed frontage.

WHEREAS, Chapter 20.91 of the Newport Beach Municipal Code requires findings and facts in support of such findings for approval of a variance, which are presented as follows:

1. Finding: That there are exceptional or extraordinary circumstances applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same district.

Facts in Support of Finding: The small size and unusual orientation of the lot creates extraordinary circumstances that inhibit the maximum floor area allowed for a structure proposed on the lot that would not apply to the typical-sized and oriented lot within the block and throughout Balboa Island. The unusual orientation of the lot with the strict application of the Zoning Code required setbacks, which are unreasonably greater than on other lots in the vicinity, disproportionately reduces the buildable area of the subject site compared to lots within the block and District.

2. Finding: That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding: The application of the default setbacks to the small lot results in a disproportionately reduced buildable area with a FAR of 0.57. Strict application of the Zoning Code would deprive the property of substantial rights and privileges enjoyed by other parcels within the R-1.5 District.

3. Finding: That the granting of the application is consistent with the purposes of this code and will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Facts in Support of Finding: The proposed single-family residence is consistent with what the development regulations permit in the immediate vicinity and throughout the neighborhoods of Balboa Island. The resulting floor area of approximately 1,560 square feet (1.04 FAR) plus 200 square feet for a gross floor area of 1,760 square feet is comparable to the FAR allowed in the vicinity and places the property in parity with the properties in the neighborhood.

4. Finding: That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding: The proposed single-family dwelling will provide the minimum required parking of two enclosed garage spaces per unit to meet the Zoning Code regulations, which is important to the improvement of the Balboa Island neighborhood where the on-street parking is limited. The height restrictions provided by the Zoning Code will not be exceeded by the proposed project. The minimum required side yard setback immediately adjacent to the existing residence to the west will be provided. Therefore, the granting of the floor area variance for the proposed

dwelling would not adversely affect the health or safety of persons residing or working in the vicinity, would not be detrimental to public welfare, and would not be injurious to property or improvements in the vicinity.

WHEREAS, Chapter 20.91 of the Newport Beach Municipal Code requires findings and facts in support of such findings for approval of a modification permit, which are presented as follows:

Findings

- 1. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
 - The subject property is unusually small, 1,500 square-feet, and oriented differently than nearby lots, south to north with the front adjacent to Park Avenue. Strict application of the Zoning Code requires larger setbacks that were not intended for the R-1.5 District. A typical lot on Balboa Island has front yard setbacks called out on the Districting Map ranging from 5 feet to10 feet, depending on the block, and rear property lines adjacent to 10-foot wide alleys, which requires a minimum rear yard setback of 5 feet.
 - The subject property is a reversed corner lot within a block that the Districting Map established a 6-foot front yard setback along Crystal Avenue, which results in an additional for 6-foot setback for the rear 20 feet along Crystal Avenue.
- 2. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
 - The 5-foot 4-inch front yard is within the range of 5- foot to10-foot front yard setbacks called out on the Districting Map for the typical lots (85 feet in depth) throughout Balboa Island.
 - The required side yard setback along Crystal Avenue is 3 feet. The proposed corner of the garage will encroach 1 foot into the 3-foot setback and is necessary to create the minimum required interior two-car garage parking spaces of 17 feet 6 inches by 19 feet.
 - The proposed garage will encroach 4 feet into the 6-foot reversed corner setback. As with the encroachment into the required sideyard setback, this encroachment is necessary to create the minimum required garage space. The second floor will stepback to provide 5 feet 3 inches to the property line leaving only a 9-inch encroachment, which is necessary to maintain useable floor area on the second floor.
 - The proposed rear yard setback is 3 feet. The rear yard encroachment consists of the garage on the first floor and a bedroom on the second floor. The first floor garage encroachment is necessary to create the minimum required two car garage parking spaces. The second floor 3-foot rear yard setback is intended to match the standard

Page 4 of 7

3-foot side yard setback on the abutting property, thus providing the same amount of air, light, and separation as would exist with two 3-foot side yard setbacks.

- 3. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
 - The requested encroachments will provide the applicant the ability to construct a single-family dwelling that consists of the minimum two-car garage parking spaces required by the Zoning Code, which is important to the immediate vicinity and all of Balboa Island where the on-street parking is limited.
 - The granting of the application will enable the proposed single family dwelling to create articulation and stepbacks on the first and second floor to meet the Residential Design Criteria.
 - All site distance requirements will be met for the Public Works Department.

WHEREAS, this project has been reviewed and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) and Class 5(Minor Alterations to Land Use Limitations); and

NOW THEREFORE, BE IT RESOLVED:

<u>Section 1.</u> The Planning Commission of the City of Newport Beach hereby approves Variance No. 2007-004 and Modification Permit No. 2007-078 subject to the Conditions set forth in Exhibit "A".

<u>Section 2.</u> This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

Planning Commission	Resolution No
-	Page 5 of 7

PASSED, APPROVED AND ADOPTED THIS 6th DAY OF MARCH 2008.

AYES: <u>Eaton, Peotter, Hawkins, Cole,</u>
<u>McDaniel, Toerge and Hillgren</u>

NOES: None

BY: LAM CALL

Brawey Hilgren, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL (Project-specific conditions are in italics)

<u>PLANNING</u>

- 1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
- 2. <u>Prior to issuance of building permits</u>, approval from the California Coastal Commission shall be required.
- 3. The interior garage with dimensions of 17 feet 6 inches wide by 19 feet deep shall remain free of all obstructions and remain available for the parking of vehicles at all times.
- 4. All height restrictions for the R-1.5 District shall be met, including maximum height permissible 24 feet for midpoint/flat roof/deckrails.
- 5. The total square footage of the approved structure, including the 200 square-foot credit permitted by the Zoning Code for enclosed pacing spaces for the R-1.5 District, shall not exceed 1,760 square feet.
- 6. The new single-family structure shall maintain the following minimum setbacks: 5 feet 4 inches to the front property line adjacent to Park Avenue; 3 feet to the westerly side property line; 2 feet on the first floor and 5 feet 3 inches on the second floor to the reversed comer northeasterly property line along Crystal Ave; 2 feet for the southerly most corner of the garage to the easterly side property line along Crystal Avenue; 3 feet to 5 feet to the easterly side property line along Crystal Avenue; and 3 feet to the rear property line.
- 7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 8. Prior to the issuance of building permits, the applicant shall work with the Planning Department to obtain and record a Certificate of Compliance or Lot Line Adjustment to legally recognize the portions of parcels at 201 Crystal Avenue as one parcel for a single development.
- 9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
- 10. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic

control and transportation of equipment and materials shall be conducted in accordance with state and local requirements.

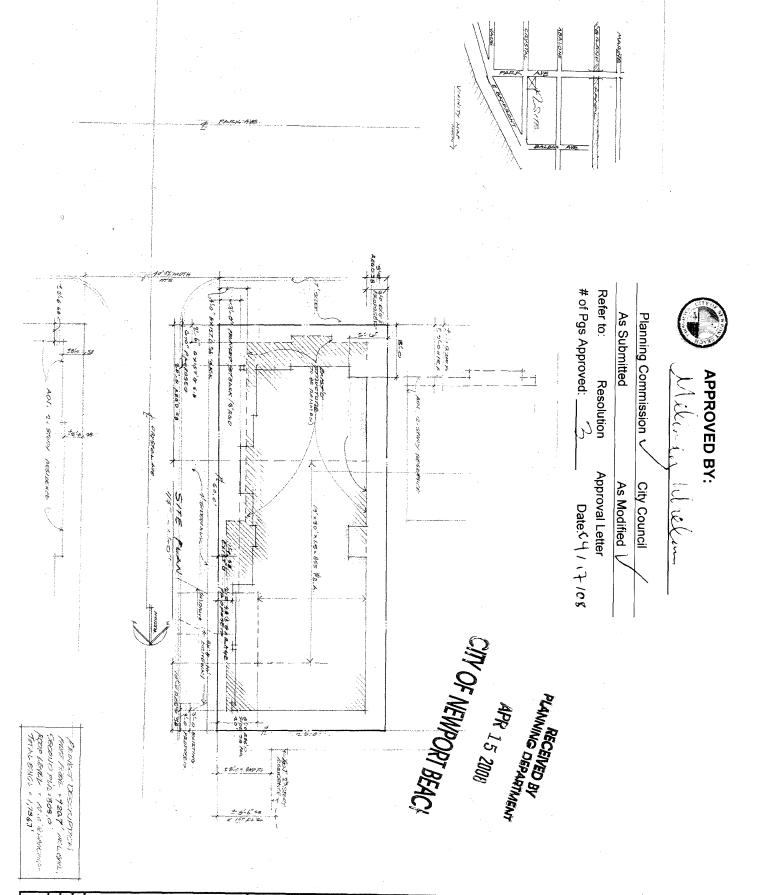
11. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.

Building Department Conditions

- 12. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
- 13. Project foundation and slab design shall mitigate liquifaction.
- 14. The top of slab elevation shall be at 8.67 NAVD minimum due to special flood hazard zone.
- 15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

Public Works Conditions

- 16. The design or the development shall not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
- 17. All improvements shall be constructed as required by Ordinance and the Public Works Department.
- 18. All other utility service connections serving this development shall be made underground. The existing water service line is above ground in the Public right-of-way.
- 19. All improvements shall comply with the City's sight distance requirement (intersections and driveways). See City Standard 110-L.
- 20. All proposed/existing private non-standard improvements within the public-right-of-way requires an Encroachment Permit, if applicable.
- 21. All on-site drainage shall comply with the latest City Water Quality requirements.
- 22. Driveway approach bottom shall not exceed 20 feet wide for a two-car garage.

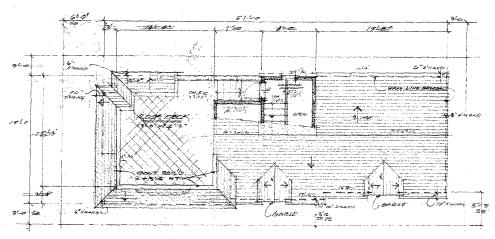


ANEW RESIDENCE FOR MR & MRS. FERPARINI DE ADDRESS:

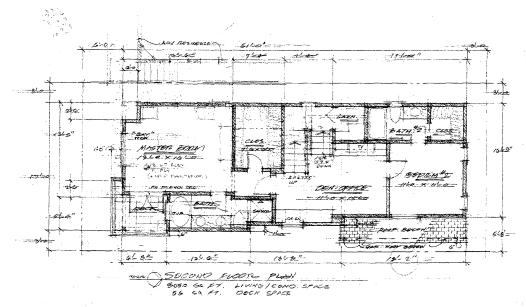
201 ORYSTAL AVENUE

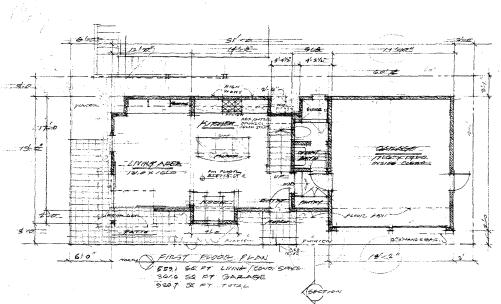
GITE PLAN

BRADFORD C. SMITH, ARCHITECT (949) 631 - 3682 FAX: (949) 631 - 3685 365 B OLD NEWPORT BLVD. NEWPORT BEACH, CALIFORNIA



NORTH DECK PROCE & LANDING



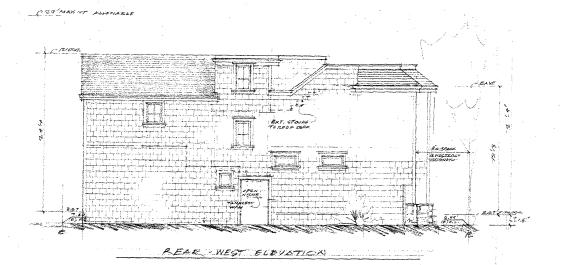


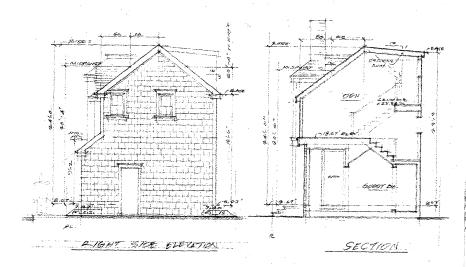
FLOOR PLANS

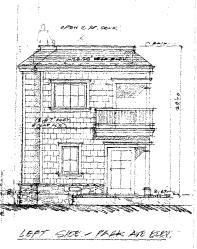
BRADFORD C. SMITH, ARCHITECT (949) 631 - 3682 FAX: (949) 631 - 3685 365 B OLD NEWPORT BLVD. NEWPORT BEACH, CALIFORNIA



PAGE A OF











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3 I ANEWHOMEFOR:
MIL & MRS. FERFARINI
OWNER ADDRESS:
2 OI CRYSTAY AVENUE

EXTERIORS

BRADFORD C. SMITH, ARCHITECT (949) 631 - 3682 FAX: (949) 631 - 3685 365 B OLD NEWPORT BLVD. NEWPORT BEACH, CALIFORNIA

Correspondence
Item No. 5a
Alternative Setback Determination
PA2012-001



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT 3300 NEWPORT BOULEVARD, BLDG. C NEWPORT BEACH, CA 92658-8915 (949) 644-3237

Memorandum

To:

Planning Commission

From:

Kay Sims, Assistant Planner

Date:

February 7, 2012

Re:

PC Agenda Item #5

1702 Park Avenue, Alternative Setback Determination (PA2012-001)

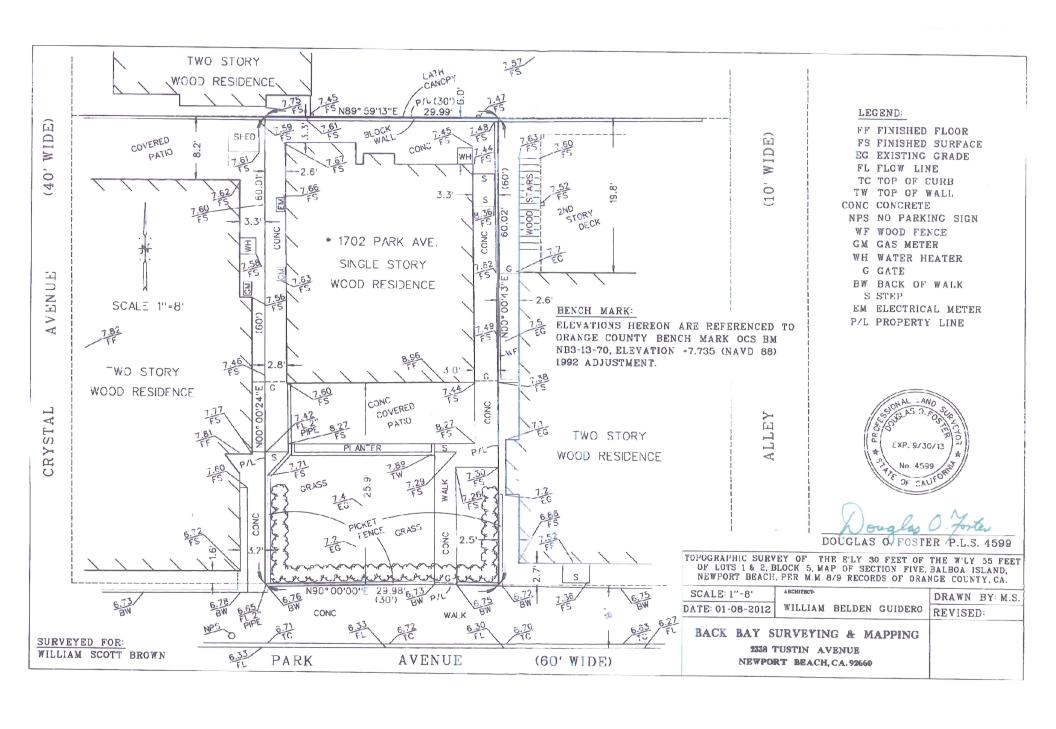
We would like to provide the following clarifications/corrections to the staff report for this project:

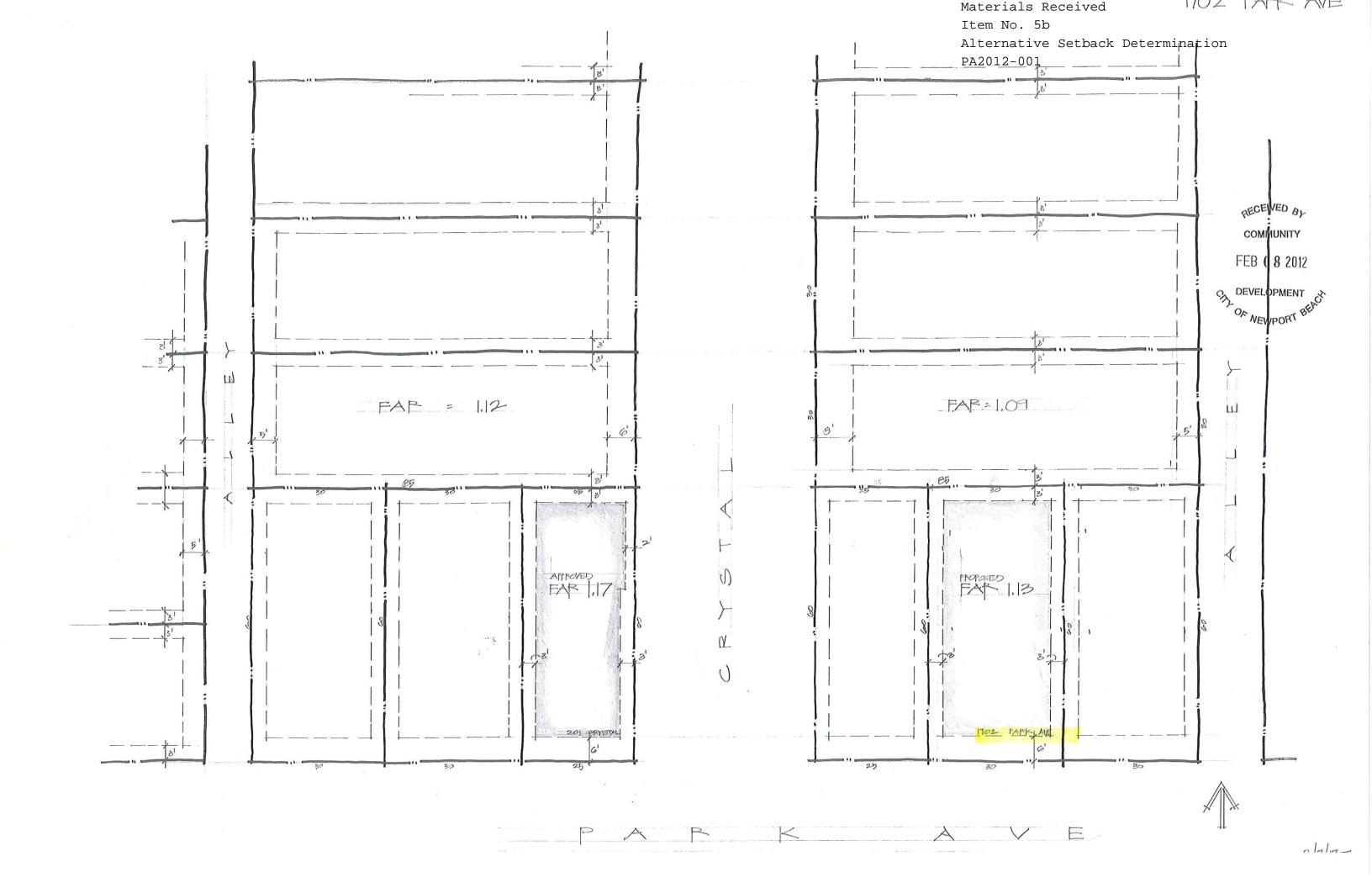
1. The FAR Analysis Table on page 5 (handwritten page 9) should state that the "Existing" (required) front setback for 1702 Park Avenue is 20 feet (see table below). The buildable area of the property is correct (720 square feet).

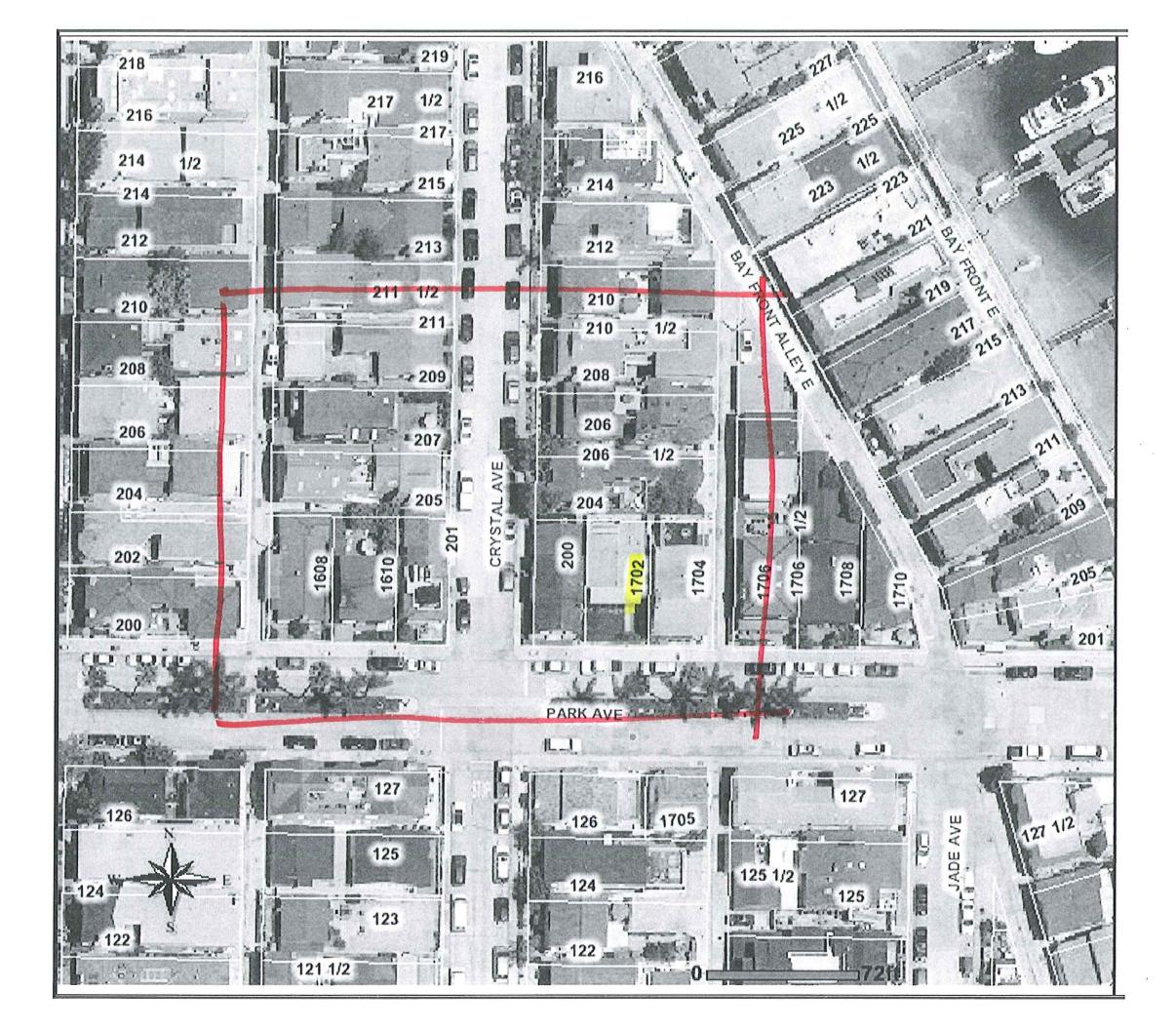
FAR Analysis Table

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Existing Setbacks F-1020, S-3, R-10)	1,800	720	1,080 + 200 = 1,280	.71
(Requested Setbacks F-6, S-3, R-3)		1,224	1,836 + 200 = 2,036	1.13
(Recommended Setbacks F-6, S-3, R-5)		1,176	1,764 + 200 = 1,964	1.09
Neighboring Lots				
2.) 204 Crystal (F-8, S-3, R-5)	2,550	1,728	2,592 + 200 = 2,792	1.09
3.) 201 Crystal (Variance No. VA2007-004)	1,500		1,760	1.17
4.) 205 Crystal (F-6, S-3, R-5)	2,550	1,776	2,664 + 200 = 2,864	1.12

2. Attachment PC 3 (Site Survey) was not printed properly and is attached. As shown on the site survey, current development on the property encroaches approximately 2 feet into the front 20 foot setback, 2.4 inches into the westerly side setback, and 6 feet 8 inches into the rear setback. The easterly side setback is 3 feet and is consistent with the 3 foot side setback for the RB-I (Balboa Island) Zoning District.







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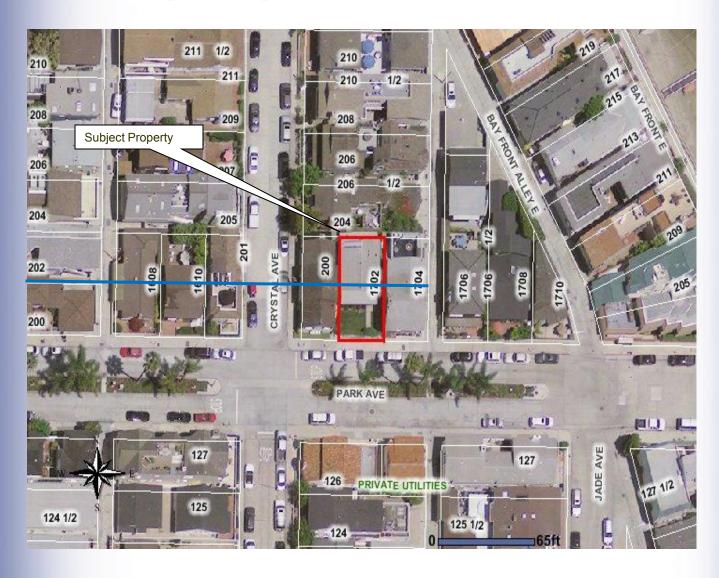


Planning Commission Meeting

February 9, 2012

1702 Park Avenue Alternative Setback Determination

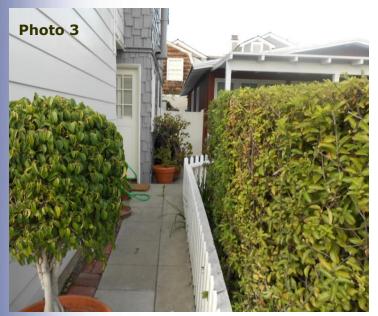
Vicinity Map



Site Photos

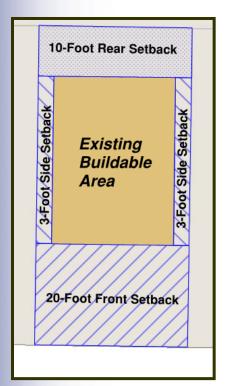


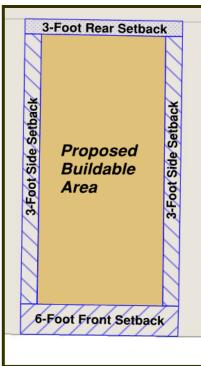


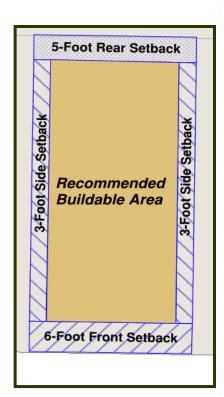




Setbacks







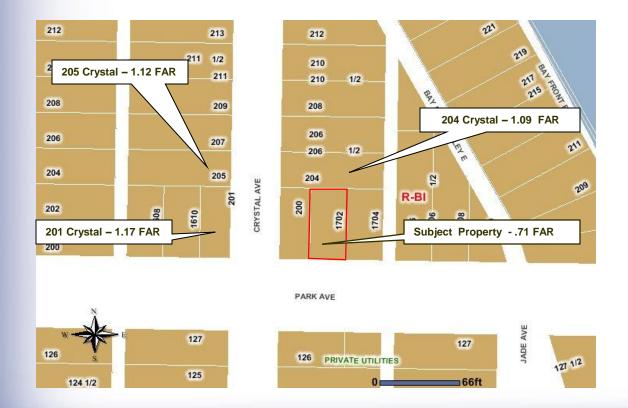
Required Setbacks

Proposed Setbacks

Recommended Setbacks

FAR Comparison

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1.) 1702 Park Avenue/subject property (Required Setbacks F-20, S–3, R-10)	1,800	720	1,080 + 200 = 1,280	.71
(Requested Setbacks F-6, S-3, R-3)		1,224	1,836 + 200 = 2,036	1.13
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Recommendation

Approve Alternative Setback No. SA2012-001 as recommended by staff with the Alternative Setback Determination letter attached to the staff report (Attachment No. PC 1) that would establish the following setbacks:

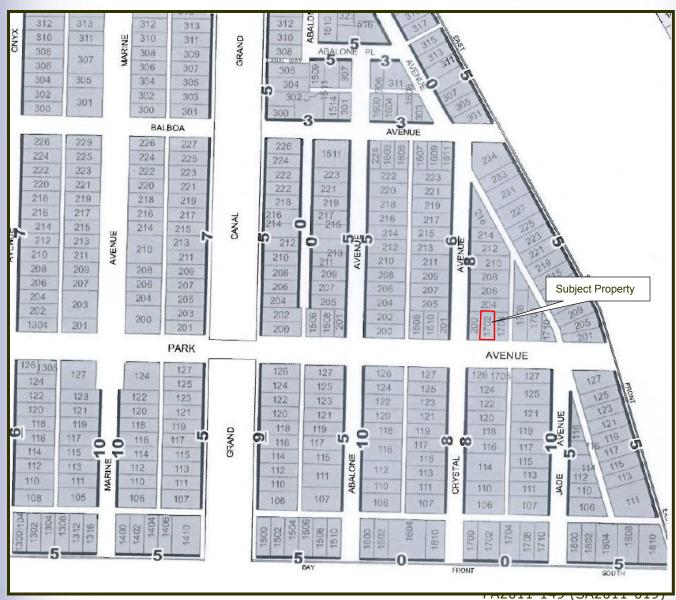
Front – 6 feet

Sides - 3 feet

Rear - 5 feet



Portion of Setback Map S-4



Site Survey

